EXHIBIT A

IIS March 22, 2022 Supplemental Infringement Contentions

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ID IMAGE SENSING LLC, Plaintiff, v. OMNIVISION TECHNOLOGIES, INC., Defendant.	C.A. No. 20-CV-136-RGA

PLAINTIFF'S AMENDED CLAIM CHART DISCLOSURES

Plaintiff ID IMAGE SENSING LLC ("Plaintiff" or "IIS") makes the following Amended Claim Chart Disclosures to Defendant OMNIVISION TECHNOLOGIES, INC. ("Defendant" or "Omnivision"). These disclosures are based on the information that Plaintiff has been able to obtain to date, and documents produced by Defendant in December of 2021 that should have been produced much earlier as "core technical documents". In addition, Plaintiff incorporates by reference its First Amended Complaint (D.I. 22), as well as its Delaware Default ESI Rule 4.A Disclosures served on April 19, 2021.

Claim 1 ("Asserted Claim") of U.S. Patent No. 7,333,145 ("the Asserted Patent" or "the '145 Patent") has been infringed, either literally or under the doctrine of equivalents, by Defendant. Attached as exhibits hereto are representative claim charts setting forth where in the Accused Products each element of claim 1 is found. Plaintiff expressly reserves the right to assert additional patent claims against Defendant.

Defendant makes, uses, sells, and/or offers for sale certain Accused Products that directly and indirectly infringe claim 1 of the '145 Patent. More specifically, Defendant makes, uses, sells, and/or offers for sale image sensor products, including those falling within the 1 megapixel and below, 2-5 megapixels, 8-13 megapixels, and above 13 megapixels products groupings as

categorized by Defendant, that include the components and functionality described in Plaintiff's Amended Complaint that are alleged to infringe the Asserted Claims of the '145 Patent. *See also*, D.I. 22 at paragraphs 12-18. The Accused Products include, but are not limited to, the models of image sensors listed in Exhibit O and any other image sensors with similar components and functionality, including those that support both LED and Xenon flash modes. The Accused Products include all future generations of the accused infringing design, as well as any successor products or later-released products that utilize a similar and/or identical infringing design that are offered by Defendant or any of its subsidiaries and/or affiliates. Plaintiff reserves the right to assert infringement against additional Omnivision products for which Defendant produces additional documents. The attached claim charts are illustrative rather than exhaustive. They are representative of, and apply to, all of Defendant's products comprising similar features, functions, and/or characteristics to those shown and described.

Defendant indirectly infringes the Asserted Claims of by inducing its customers to use the Accused Products in an infringing manner as described in the attached claim charts. *See also*, D.I. 22 at paragraph 22. Omnivision has had knowledge of the '145 patent and Plaintiff's infringement allegations against the Accused Products since at least as early as January 29, 2020 when the Original Complaint was filed in this case. With this knowledge, Omnivision and its Affiliates (both US and foreign Affiliates) have induced infringement by its direct and indirect customers by instructing them how to incorporate the accused image sensors into their customer's products, all with knowledge that a significant percentage of the accused image sensors will be imported into the United States. Omnivision encourages its customers to use the accused image sensors in an infringing manner by, at the very least, providing marketing and technical documents to its customers such as its product technical specifications, marketing requirements documents (MRDs),

and Product Requirements Documents (PRDs).

Defendant has done so by acts including but not limited to (1) selling such products including features that—when used or resold—infringe, either literally or under the doctrine of equivalents, the '145 patent; (2) marketing the infringing capabilities of such products; and (3) providing instructions, technical support, and other support and encouragement for the use of such products, including at least the documents referenced above. Portions of Defendant's publicly available website also include similar instructions and technical support encouraging the use of the Accused Products (see, for example: https://www.ovt.com/image-sensors/2-5-megapixels). Such conduct by Omnivision was intended to and actually did result in direct infringement by Defendant's direct and indirect customers, including using, selling, offering for sale and importation of the Accused Products in the United States. By way of example only, Omnivision knows that the Microsoft Surface Pro 4 products sold by Microsoft in the United States include two of the accused image sensors, the OV5693 and OV8865 models. *See*: https://www.anandtech.com/show/9727/the-microsoft-surface-pro-4-review-raising-the-bar/8.

Further, Omnivision has admitted that it "provides datasheets to distributors under a non-disclosure agreement that precludes their publication for five years after the date of disclosure of the data sheet or the date of termination of the non-disclosure agreement. OmniVision employees will respond to inquiries from third parties about the operation or functionality of its products." *See* Omnivision response to Plaintiff's Interrogatory No. 12.

DATED: March 21, 2022 */s/ Corby R. Vowell*

Jonathan T. Suder (*pro hac vice*)
Corby R. Vowell (*pro hac vice*)
Dave R. Gunter (*pro hac vice*)
FRIEDMAN, SUDER & COOKE
Tindall Square Warehouse No. 1
604 East 4th Street, Suite 200
Fort Worth, Texas 76102
Telephone: (817) 334-0400
Facsimile: (817) 334-0401
Email: jts@fsclaw.com
Email: vowell@fsclaw.com
Email: gunter@fsclaw.com

Brian E. Farnan (Bar No. 4089)
Michael J. Farnan (Bar No. 5165)
FARNAN LLP
919 Market Street, 12th Floor
Wilmington, DE 19801
T: 302-777-0300
F: 302-777-0301
bfarnan@farnanlaw.com
mfarnan@farnanlaw.com
Attorneys for Plaintiff, ID IMAGE SENSING LLC

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on March 22, 2022, a true copy of the foregoing Plaintiff's Initial Claim Chart Disclosures was served via electronic mail to the following:

Kelly E. Farnan – farnan@rlf.com

David H. Bluestone – David.bluestone@bfkn.com

Michael D. Educate – michael.educate@bfkn.com

DATED: March 22, 2022 */s/ Corby R. Vowell*

EXHIBIT B

Anson Chan Deposition Transcript Portions

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE
CASE NO.: 20-136-RGA-JLH

ID IMAGE SENSING, LLC,

Plaintiff,

vs.

OMNIVISION TECHNOLOGIES, INC.,

Defendants.

_____/

CONFIDENTIAL ATTORNEY'S EYES ONLY

REMOTE VIDEOTAPED DEPOSITION OF

ANSON HOIFUNG CHAN

Thursday, March 24, 2022
9:00 a.m. - 1:09 p.m. (PDT)

Stenographically Reported By:
Kimberly Fontalvo, RPR, CLR
Realtime Systems Administrator

APPEARANCES:

On behalf of Plaintiff:

FRIEDMAN SUDER & COOKE
604 East 4th Street, Suite 200
Fort Worth, TX 76102
BY: CORBY R. VOWELL, ESQ.
vowell@fsclaw.com

On behalf of Defendant:
BARACK FERRAZZANO KIRSCHBAUM & NAGELBERG
200 West Madison Street, Suite 3900
Chicago, IL 60606
BY: DAVID BLUESTONE, ESQ.
david.bluestone@bfkn.com
--and--

Robert Cleary, Esq.,
General Counsel, OmniVision

ALSO PRESENT: CARLOS VELASQUEZ, Videographer

INDEX

EXHIBITS

**Exhibit 14 not referred to.

VIDEOGRAPHER: Give me a moment to get the recordings going, and then I will do a read-on and then we'll get it going.

Morning. We are on the record at 9:03 a.m. on March 24, 2022.

This is the Media Unit 1 of the video-recorded deposition of Anson Chan taken by counsel for the Plaintiff in the matter of ID Image Sensing LLC versus OmniVision Technologies, Inc.

This case is filed in the U.S. District Court, District of Delaware, and the case number is 20-136-RGA-JLH.

This deposition is being held remotely via Zoom.

My name is Carlos Velasquez from the firm Veritext and I am the videographer. The court reporter is Kimberly Fontalvo from the firm Veritext.

If there are any objections to proceeding, please state them at the time of your appearance, beginning with the noticing attorney.

MR. VOWELL: This is Corby Vowell, with the law firm of Friedman Suder & Cooke,

representing the Plaintiff, ID Image Sensing LLC.
MR. BLUESTONE: David Bluestone, Barack Ferrazzano Kirschbaum & Nagelberg, representing OmniVision, Defendant.
THE COURT REPORTER: Okay. Sir, would you raise your right hand so I can swear you in, please. Mr. Chan.
Do you swear or affirm the testimony you are about to give will be the truth, the whole truth, and nothing but the truth?
THE WITNESS: Yes.
THE COURT REPORTER: Thank you.
DIRECT EXAMINATION
BY MR. VOWELL:
Q. Good morning, Mr. Chan. My name is Corby Vowell, and as you know, I represent the Plaintiff in this matter. I'll be asking you a few questions today.
Can you please state your name and -- your full name for the record?
A. Name's Anson Hoifung Chan. Hoifung is my middle name. C-H-A-N.
Q. And where do you currently reside?
A. California.

Q. And what city?
A. San Jose.
Q. And who is your current employer?
A. OmniVision Technologies, Inc.
Q. And what is your title there?
A. VP of finance and CFO.
Q. Have you ever been deposed before?
A. Yes, I have.
Q. About how many times?
A. I cannot remember. Handful.
Q. Handful.
Were they all in connection with your employment at OmniVision?
A. Yes.
Q. And were any of them patent cases?
A. Yes, I think so.
Q. Do you recall the name of the opposing party in those cases?
A. Not specifically, no.
Q. Well, since you've been deposed before, I can keep some of the basics pretty short here. I'm going to ask you some questions and you will need to provide verbal answers because a head nod cannot be recorded by the court reporter.
Do you understand that?

A. I understand.
Q. And if you don't understand the question that I ask, will you please ask me to rephrase or provide clarification.
Do you understand that?
A. Yes, I will.
Q. We'll take breaks from time to time. I know that this is not scheduled to be a long deposition so there may not be many breaks. But if you do need a break at any time, please let me know.
Do you understand?
A. Okay. Yes.
Q. I would just ask that if there's a question pending, that you would answer the question first before taking a break.
A. You got it.
Q. Do you understand that?
A. Yes.
Q. Is there any reason today that you cannot give full and accurate testimony?
A. No.
Q. And do you understand you're here to testify on behalf of OmniVision as a corporate representative?
A. Yes.

Q. Okay. And have you seen the deposition notice with the deposition topics for this case?
A. Yes, I have.
Q. All right. Let me share my screen for a moment and grab this.
So, Mr. Chan, this is the deposition notice for this particular deposition.
Have you seen this before?
A. Yes.
Q. And I'll try to keep this quick. I'm going to scroll down to where the topics are. And there are a number of topics. There's 21 topics. Several of which you've been designated to testify before -- or testify on.
MR. VOWELL: David, I'm not sure how you want to do this. Because there are so many, I can just list them out, or do you want me to go through them with the witness one by one?
MR. BLUESTONE: Can you guys hear me okay?
MR. VOWELL: Yes.
MR. BLUESTONE: I mean, you can list them out. We've gone through the topics and prepared. So if you want to just list the ones, I can confirm that those are the correct ones.

MR. VOWELL: Very good.
So Topics Number 6, 7, 9 through 20, and 22.
MR. BLUESTONE: Sorry, guys. The space bar is having issues.
Yes, that's correct.
BY MR. VOWELL:
Q. Mr. Chan, can you please state -- well, let me get this off the screen now.
(Thereupon, marked as Deposition Exhibit 1.)
THE COURT REPORTER: Pardon me, Counsel. Is that Exhibit 1?
MR. VOWELL: Yes, that would be Exhibit 1.
And I have not remarked -- for the court reporter, I have not premarked these. I think I know the order in which they're going to go, but I will have to send them to you after the fact. We'll make a record by Bates number of the other documents.
BY MR. VOWELL:
Q. So, Mr. Chan, can you give me a sense of your -- or can you just describe your educational background since high school?
A. Okay. I went to college in University of

Pennsylvania. Got my business engineering degree there. Subsequently, I went to University of Chicago. Got my MBA there.
Q. And did you ever work as an engineer?
A. Yes, I did.
Q. And when was that and for whom did you work?
A. Around 1987-ish for about four years.
Q. And who were you working for?
A. There's a company called Prophet 21 in Pennsylvania.
Q. And what did you do for them?
A. I was a software engineer.
Q. When did you join OmniVision?
A. 2006, I believe.
Q. And what was your role at OmniVision when you joined in 2006?
A. I cannot remember exact job title, but it was helping with the business strategy.
Q. And what was your next job title at OmniVision, or your next role?
A. I got promoted as the VP of finance and CFO.
Q. When did that occur?
A. Maybe 2008, 2009.

Q. Okay. So you've been the CFO since -- since that time frame?
A. That is correct.
Q. And who do you report to directly?
A. Currently, I report to our president.
Q. And who is that?
A. Henry Yang, Y-A-N-G.
Q. And where is he located?
A. Same office as me in Santa Clara, California.
Q. Mr. Chan, what did you do to prepare for your deposition today?
A. I reviewed the documents with our counsel for the last two days.
Q. And which documents are you referring?
A. It would be various license agreements that we produced, the Excel files that was produced, as well as the Complaint, the company's response to the Complaint, and the various topics that I am responsible for.
Q. And when you did you meet with your counsel to prepare for today?
A. Sorry. You said today?
Q. I'm sorry. When did you meet with your counsel to prepare for the deposition?

A. This past Tuesday and Wednesday.
Q. And was anybody else there?
A. Myself, David, and Robert, our general counsel.
Q. There were some -- I'm going to go through a couple of topics that are not directly related to sales but that that you've been designated to testify about.
So Topic Number 6, when did OmniVision first learn of the patent that is the subject of this litigation?
A. That's when the company received the Complaint.
Q. So OmniVision had no knowledge of the patent in this case prior to the lawsuit being filed?
A. Not that we were aware of.
Q. And throughout the deposition, I may refer to the patent in this case or patent in suit, or I may refer to it as the '145 Patent.
Do you understand that all of those would refer to the patent that is the subject of this litigation?
A. Yes.
Q. Have you ever reviewed the '145 Patent?

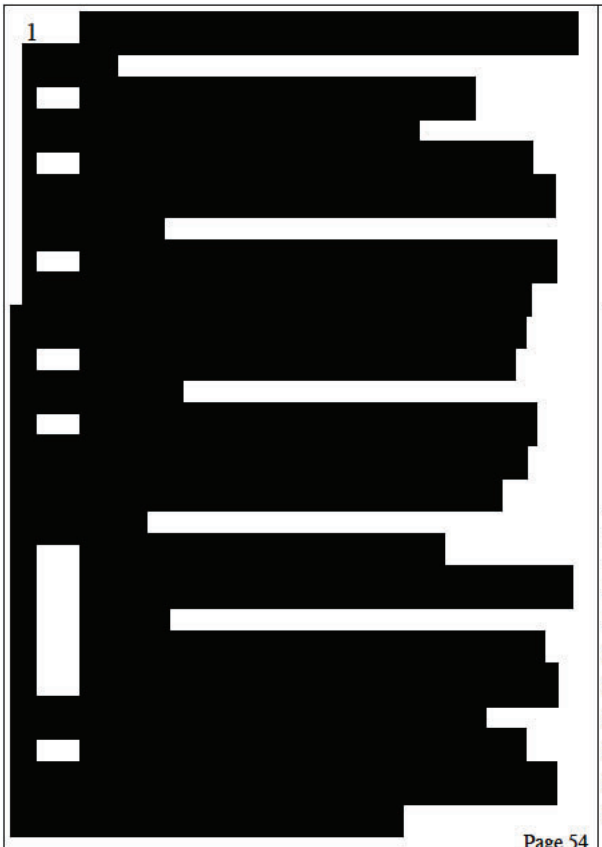
A. No, I have not read it myself.
Q. What did OmniVision do when it learned of this lawsuit?
A. The company worked with the counsel and also arranged for discussions with technical personnels.
Q. And by "technical personnels," do you mean technical personnels at OmniVision?
A. Yes, at OmniVision.
Q. Okay. And who were those technical people that you talked to?
A. I did not talk to them personally. It's through our counsel.
Q. And who is your counsel?
A. David Bluestone, here with me.
Q. Did OmniVision obtain any kind of opinion, legal opinion, regarding infringement or validity of the '145 Patent?
MR. BLUESTONE: We're going to object to that to the extent it calls for attorney-client privilege. We're not waiving any privilege to that.
MR. VOWELL: Okay. So the fact of whether you got an opinion or not I don't think is it privileged. So I'm going to ask the witness

again.
BY MR. VOWELL:
Q. Did OmniVision obtain an opinion of counsel regarding infringement or validity?
MR. BLUESTONE: I'm going to instruct him not to answer that question. You and I can talk offline on that. I don't think there's a date in which we'd have to waive any privilege on that or determine that yet.
BY MR. VOWELL:
Q. Mr. Chan, are you going to follow the advice of your attorney?
A. Yes.
Q. Mr. Chan, you've also been designated to testify on the basis for OmniVision's non-infringement positions in this case.
Are you aware of that?
A. Yes.
Q. All right. So can you describe for me why OmniVision does not infringe the '145 Patent?
MR. BLUESTONE: Again, I'm going to object to form and object that that's outside the scope to the extent you saw our objections on that. He can answer in general, but he is not acting as an expert witness and it calls for

expert witness testimony.
You can answer in general, if you can, but go ahead.
A. Okay. Well, in general, my understanding of the patent is that the presence of certain type of flash will set an indicator somewhere on the image sensor. And the image sensor, based on this setting, will bring up the corresponding exposure time and gain values stored in the sensor ahead of time and act accordingly.
With that said, our sensors are passive devices and -- and it's not designed to act in accordance with the presence or not the presence of any particular illumination device.
So that's the reason why the company does not believe there's any infringement issue here.
BY MR. VOWELL:
Q. And how did you come by that understanding if you did not ever review the '145 Patent?
MR. BLUESTONE: Again, object to the extent it calls for attorney-client communications.
You can answer in general, but I advise you not to divulge any communications with counsel.

A. Most of it is from reading the Complaint itself.
BY MR. VOWELL:
Q. And did you talk to anybody at OmniVision to prepare for that topic?
A. As in OmniVision employees?
Q. Correct.
A. It would be our general counsel.
Q. Anyone else?
A. No.
Q. Did you talk to any engineers to prepare for that topic today?
A. No.
Q. Do you know why you were designated for this topic rather than an engineer or technical person that could address is it in more detail?
MR. BLUESTONE: Objection to the extent it calls for attorney-client communications.
You can answer if you understand.
A. I do understand some of the background behind some of these license agreements that's produced. There's also some Excel files that I had to prepare.
BY MR. VOWELL:
Q. And you've also been designated to address

world.
Q. You've been offered to provide testimony



Page 54

So is OmniVision Technologies, Inc., in the United States responsible for the marketing of all of OmniVision marketing?
A. What do you mean by "all of"?
Q. So -- strike that.
Let me -- so where are the accused products in this case? Where do the marketing activities occur?
A. The collection of information takes place from different parts of the world, where it's

Page 56

MR. BLUESTONE: Object to the form.
You can answer.

Page 55

collated into a list of functionalities or requirements that get shared with the design team.
Q. So that -- this collection of information from customers, that's done by marketing people in the United States; is that right?
A. No, not just people in the United States.
Q. But there are -- go ahead.
A. Market trends as to, you know, generally what -- different -- the world needs, right, it's collected from everywhere.
Q. But does the marketing team in the U.S. ultimately collect all of that information and then provide it to the design team?
A. I would say no, not primarily, because if an application is predominantly used by somewhere outside of United States, for instance, then the marketing intelligence will not necessarily be collected by the U.S.-based marketing team.
Q. Mr. Chan, one of the topics you've been designated to talk about relates to how many of OmniVision's products get imported in the United States.
Well, let me start with this: As I understand it, OmniVision sells products and its affiliate sells products outside the United States

Page 57

hands Canada; is that right?
A. [redacted]
Q. And so for products sold by OmniVision Singapore, do you know whether those products ever get imported in the United States in an end user product?
A. OmniVision Singapore, like OmniVision Technologies, Inc., only sells components. It's impossible to find out what -- where these components would go after they get shipped to our respective customers.
Q. You know that OmniVision chips ultimately get imported in the United States, correct?
MR. BLUESTONE: Object to the form.
A. They may. But as the company, we would never know.
BY MR. VOWELL:
Q. Wouldn't you want to know that?
MR. BLUESTONE: Object to the form.
A. Actually, no. We would not want to know.

We do not need to know.
BY MR. VOWELL:
Q. Does OmniVision ever try to sell products to companies in the United States?
A. We -- that's -- you have the detail, too. We sell to companies in the United States.
Q. When OmniVision sells products outside the United States, whether it's OmniVision Technologies, Inc., or OmniVision Singapore, doesn't it know and intend for its products to get incorporated into devices such as smartphones that are ultimately imported into the United States?
MR. BLUESTONE: Object to the form, compound.
If you understand, you can answer.
A. I do not understand why -- can you try one more time?
BY MR. VOWELL:
Q. Well let me ask you this: As CFO of OmniVision Technologies, Inc., wouldn't it benefit your company if you could sell more products by having them imported into the United States?
A. Definitely not.
Q. So does OmniVision sell to -- sell products to smartphone manufacturers?

A. Their components do not go to cell phone manufacturers. Image sensors as a component go to what I would refer to as module manufacturers. Module manufacturers produce these miniaturized cameras that then get incorporated into different types of consumer devices such as phones.
Q. And so wouldn't benefit OmniVision to have its products incorporated into modules that go into smartphones that would be imported into the United States?
MR. BLUESTONE: Object to the form.
A. No. It does not matter if the end product goes into whatever country. It only is meaningful to the extent of reporting to investors, reporting to the stock market, the overall profitability of the business in terms of selling components. Where it will ultimately go has no meaning or bearing to the company.
BY MR. VOWELL:
Q. So you would not have any interest in selling to a manufacturer that, for example, sold its modules to Apple, given the amount of market share that Apple has in the United States?
A. As a component supplier, that information is not meaningful.

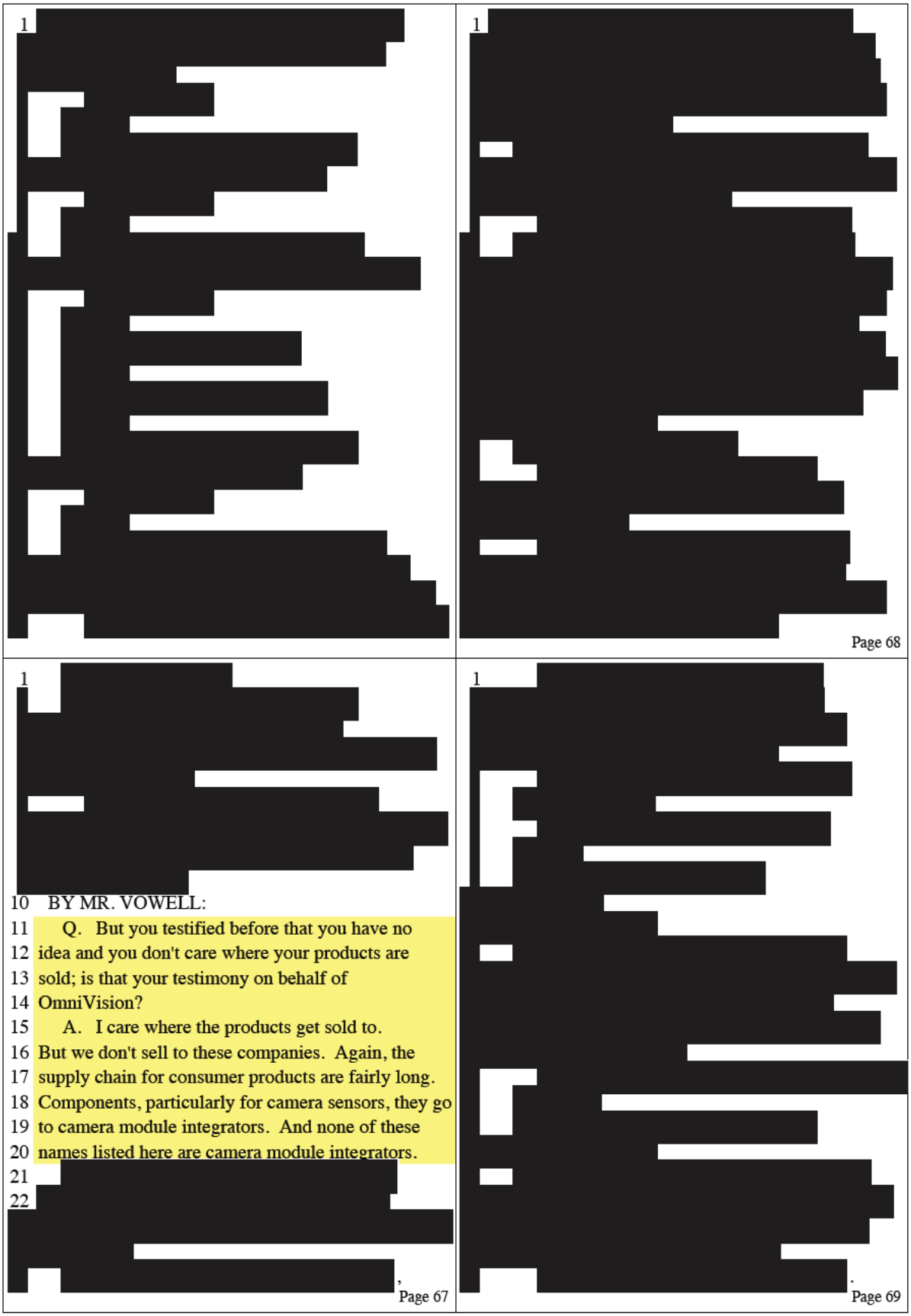
Q. [redacted]

Page 62

Page 64

Page 63

Page 65



BY MR. VOWELL:

Q. But you testified before that you have no idea and you don't care where your products are sold; is that your testimony on behalf of OmniVision?

A. I care where the products get sold to. But we don't sell to these companies. Again, the supply chain for consumer products are fairly long. Components, particularly for camera sensors, they go to camera module integrators. And none of these names listed here are camera module integrators.

Page 68

Page 67

Page 69

[redacted]

Mr. Chan, were you the CFO of OmniVision in 2014 and 2015?
A. Yes.
Q. And during that time frame, I think we discussed that OmniVision was a publicly traded company in the United States?
A. Yes.
Q. And did it have an obligation, then, to file annual reports with the Securities and Exchange Commission, such as Form 10-K?
A. Yes.
Q. As CFO did you have any involvement in the drafting or review of the Form 10-K for OmniVision?
A. Yes, I do.
Q. Are you familiar with the contents of the 10-Ks that OmniVision filed?
A. Yes.
Q. Would that also be form of Form 10-Q?
A. Yes, that's a quarterly report.

Q. So I'm going to share screen here again.
Mr. Chan, I've just put up on the screen a Form 10-K that was downloaded -- I'll represent to you this was downloaded from the Internet, and I'm happy to scroll through as much of this for you to be -- to at least see what it is and any other information you feel you need to see.
Can you at least identify what type of document this is?
MR. BLUESTONE: Hold on. Corby, I just want to object to this because we had an agreement before this that large-scale documents be produced so he would have access to them beforehand. This is commensurate with what our agreement was. I understand you are going to let him to take time to go through it.
But go ahead, Mr. --
MR. VOWELL: I will do that in the future. I did not realize that he would give the answers he was giving, and this was only for rebuttal purposes or to just kind of steer the ship a bit.
MR. BLUESTONE: Go ahead and proceed. But we might ask for an opportunity for him to look at it natively to the extent that you are

pinpointing specific statements out of context.
Go ahead.
MR. VOWELL: I'm happy to do that. Happy to do that.
BY MR. VOWELL:
Q. Mr. Chan, can you tell from what you are seeing on the screen -- again, if you need to see down further -- what this document is?
A. It does appear to be the Form 10-K filed for fiscal '14.
Q. And you were the CFO at that time?
A. Yes.
Q. And you would have reviewed this document at that time?
A. Yes.
Q. Did you author any portion of the 10-Ks at that time?
A. Not directly.
Q. So I'm only going to go down a few pages here, so I'm happy to scroll and just -- so that you can verify that I'm not skipping through anything. What I may do is -- if I make it that size, can you read that text still?
A. Yes, somewhat.
Q. I'll have to zoom in in a moment. But let

me skip to -- it's basically Page 5.
So does this appear to be the table of contents or at least a portion of the table of contents?
A. Yes.
Q. Then there is a part one. And so I'm basically going to this portion that's at the bottom of Page 4 of this document. I will zoom in because that's fairly small on my screen, at least.
A. Mine is also small.
Q. Okay. So can you read it -- do I need to zoom it in more or can you read it from there?
A. I can read it.
Q. Let me direct your attention to -- do you see a heading there called "Market Environment"?
A. Yes.
Q. And the first part it says, "We sell our products worldwide directly to OEMs," at least the first portion of that sentence.
Do you see that?
A. Yes.
Q. So it's clear that OmniVision does sell products worldwide to OEMs?
MR. BLUESTONE: Objection. Lacks foundation. Object to form.

A. The context is different. This is a consolidated report filed with SEC. The use of "we," if you go back to the top, should define as OmniVision Technologies, Inc., and all its subsidiaries and affiliates.
BY MR. VOWELL:
Q. Okay. But with that definition, then "we," with that group of entities, does sell products worldwide directly to OEMs?
A. That's correct, yes.
Q. Okay. Now let me -- and welcome to review more of that. I just have a couple of additional questions.
Okay. In the next paragraph, so the last paragraph on the bottom of Page 4, in the first sentence -- and I don't know if I can highlight it here or not.
Can you see my highlighting there?
A. Yes.
Q. Okay. It uses the term "design win."
Do you see that?
A. Yes.
Q. Is this the design win process we were talking about earlier?
A. That's correct.

Q. In the next sentence, that starts here, it says, "The time lag" -- well, I guess you can read that here. But it discusses a time lag between the design win and volume shipments.
Do you see that?
A. Yes.
Q. Do you know what that refers to?
A. That refers to from the investors' perspective when we can report -- when we have a company agreeing to use the part to when we can report sales on selling that part. That's a time lag.
Q. And what generally causes that time lag?
A. Many different things. The biggest being customer may not use just OmniVision product. They may use sensor from our competitors. And depending on the priority where they procure parts, we may or may not even be able to ship the part based on a design win, ever. So that created a lot of that issue.
Q. Let me skip now to one other portion. So this is just a following page, and you are welcome to read any of this that you want, but I'll direct your attention to the last paragraph here at the bottom of Page 5.

A. Okay.
Q. So this first sentence, "Many of the products using our image sensors," and then there's a list of products there, including mobile phones, entertainments applications such as tablets, notebooks, and webcams.
Is that at least an accurate list of a portion of the ultimate consumer products that your -- that OmniVision's products are incorporated into?
A. These are the types of applications that image sensors can be used in.
Q. And then let me direct you to another portion here. I don't know if this is going to let me do it or not. Let's see.
So the sentence I've highlighted, if you could just read that to yourself briefly and then I'm going to ask you a couple of questions.
A. Okay.
Q. So it addresses here that OmniVision, in this report at least, and I understand -- well, OmniVision here is defined as more than just the U.S. entity. I understand that. But it does state that "We" -- again, using the plural version of "we," including all of the OmniVision entities --

"experienced the decline in sales of products that were used in mobile phones made by end user customers located in North America."
So OmniVision was able to determine that there was a decline in sales of products or of smartphones using OmniVision image sensors in North America.
Do you see that?
A. Yes.
Q. How was OmniVision able to determine that if it has no idea whether its products end up in the United States?
A. Module manufacturers, which is the direct customers, will stop buying additional products when their module cameras, in turn, cannot be shipped into the consumer devices, and that's what happened in 2014.
[redacted]

[redacted]

Q. So marketing people or possibly salespeople at OmniVision could determine, at least to some extent, the amount of OmniVision products that are ending up in North America?

MR. BLUESTONE: Object to the form.

A. Very different. The way I understand your question is what product will end up in United States. That's very different than what manufacturer or OEM may buy the part. OEM, they buy the part but they may not necessarily ship into United States. And we don't have that information.

BY MR. VOWELL:

Q. But you do have a way of determining, based on sales to your direct customers, if there is an increase or decrease in the amount of end user devices that are sold in the United States?

A. No. If you read that sentence again, what we are saying -- in an earlier document, we would have defined end use customer being the name brands that would sell consumer devices in different parts of the world. They outsource the manufacturing to different manufacturers, who then outsource a particular component called module, camera module,

who then would procure image sensors from either OmniVision Technologies, Inc., or OmniVision Singapore, depending on whether or not they do title transfer in United States or Canada, in which case they buy the part from OmniVision Technologies, Inc. Or if the module integrator is located outside of U.S. and Canada, the title transfer would take place outside, then they would have to buy the part from OmniVision Singapore.

But after the module integrator received the part and turn it into module integrators, they would then go into different subcontractors and then ultimately will end up in main subcontractor that received the orders from these name brand OEMs.

That's what we mean by "end use customers." Some of these name brands may be located in North America. And if they order less parts, the module integrators will order less camera sensors from us. We are not saying in this document that consumers in the United States are buying less phones. We're never saying that in this document.

Q. But you do have some way of correlating end user devices such as smartphones using your products with -- I'm sorry. You do have some way of correlating sales of end user products in

North America with the sales of your products to the camera module manufacturers?

MR. BLUESTONE: Objection. Misstates his prior testimony.

You can answer if you understand his question.

A. Actually, we do not know. We do not know how many consumer devices comes back to the United States.

BY MR. VOWELL:

Q. So you don't know the exact amount. But do you know -- you do know that some do; is that correct?

A. Actually, no, it's not correct.

Q. I guess I don't understand. If you can determine that there was a decline in number of end user customer products using your chips being sold in North America, then, I mean, how would you know that if -- can you explain that?

A. Sure. Again, the context of this 10-K in this specific paragraph you are showing on Page 5 is saying that a particular brand name company located in North America may be buying less devices for their, in this case, mobile phones. Okay? But these companies located in North America may or may

not be selling a particular consumer product in the United States. The product that they manufacture or design or ordered from the subcontractors can be designated for sale only in, say, India, and we do not have that information.

Q. Just for the record, let me mark this as Exhibit 7.

(Thereupon, marked as [redacted]

[redacted]

EXHIBIT C

Markman Hearing Transcript (D.I. 59)

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

ID IMAGE SENSING LLC,)
)
Plaintiff,)
) C.A. No. 20-136-RGA-JLH
v.)
) JURY TRIAL DEMANDED
OMNIVISION TECHOLOGIES, INC.,)
)
Defendant.)

J. Caleb Boggs Courthouse
844 North King Street
Wilmington, Delaware

Tuesday, October 19, 2021
9:01 a.m.
Markman Hearing

BEFORE: THE HONORABLE RICHARD G. ANDREWS, U.S.D.C.J.

APPEARANCES:

FARNAN LLP
BY: MICHAEL J. FARNAN, ESQUIRE

-and-

FRIEDMAN SUDER & COOKE
BY: CORBY VOWELL, ESQUIRE
BY: DAVE R. GUNTER, ESQUIRE

For the Plaintiff

APPEARANCES CONTINUED:

RICHARDS LAYTON & FINGER, P.A.
BY: KELLY E. FARNAN, ESQUIRE

-and-

BARACK FERRAZZANO KIRSCHBAUM & NAGELBERG, LLP
BY: DAVID H. BLUESTONE, ESQUIRE
BY: MICHAEL D. EDUCATE, ESQUIRE

For the Defendant

*** PROCEEDINGS ***

09 00 48 DEPUTY CLERK: All rise. Court is now in
09 00 49 session. The Honorable Richard G. Andrews pres ding.
09 00 55 THE COURT: All right. Please be seated. If
09 00 59 you're fully vaccinated and you want to, you can take your
09 01 02 mask off, but you don't have to.
09 01 06 So this is the Markman in *ID Image Sensing vs.*
09 01 10 *Omnivision Technologies*. I see, for the first time in my
09 01 16 nearly ten years of doing this, an all-Farnan presentat on.
09 01 21 Mr. Farnan, who have you got w th you?
09 01 23 MR. FARNAN: Good morning, Your Honor. Michael
09 01 28 Farnan on behalf of Plaintiff. With me, Dave Gunter and
09 01 32 Corby Vowell from Friedman Suder & Cooke.
09 01 37 MR. GUNTER: Good morning, Your Honor.
09 01 38 MR. VOWELL: Good morning, Your Honor.
09 01 39 THE COURT: All right. Good morning.
09 01 40 And Ms. Farnan, who have you got with you?
09 01 43 MS. FARNAN: Good morning, Your Honor. Kelly

09 01 45 Farnan from R chards Layton & Finger on behalf of
09 01 46 Omnivision. I'm joined by David Bluestone and M chael
09 01 50 Educate from Barack Ferrazzano.
09 01 55 THE COURT: Good morning. All right.
09 01 55 So I did read the briefs, and I have looked at
09 02 00 the patent, and you can do what you want to with the time
09 02 09 that you have. But the one that I thought was the most
09 02 15 chance that I was unsure as to what to do was the last one
09 02 21 about store and exposure time and gain, blah, blah, blah in
09 02 27 response to blah, blah, blah.
09 02 29 So, and on that, I think it would probably make
09 02 36 sense for the -- well, in any event, so how do you want to
09 02 40 do this?
09 02 42 MR. VOWELL: Good morning, Your Honor. Corby
09 02 50 Vowell on behalf of the Plaintiff. Let me see if I can --
09 02 58 and Your Honor, I'd like to just jump right to the term that
09 03 01 you suggested you might need the most discussion on.
09 03 03 THE COURT: Okay.
09 03 04 MR. VOWELL: So if you'll just give me a moment.
09 03 10 And actually, Your Honor, if I may approach, I have copies
09 03 12 of the slides --
09 03 13 THE COURT: Sure, yeah.
09 03 14 MR. VOWELL: -- that we'll be going through.
09 03 17 DEPUTY CLERK: Thank you.
09 03 18 MR. VOWELL: So Your Honor, for this term, it's

09 03 30 actually a larger phrase that includes several of the terms
09 03 33 that the Defendants want to construe separately.
09 03 36 THE COURT: Yeah, and the part that I was most
09 03 38 interested in was the in response to part, but go ahead.
09 03 42 MR. VOWELL: So on this slide, it just shows the
09 03 45 Defendant's construct on, and essentially what they're doing
09 03 49 here is trying to reorder the claim elements and essentially
09 03 54 turn this into a method claim. This is an apparatus claim
09 03 59 that describes the components of the camera module. And
09 04 02 what they've done in several of their terms, including this
09 04 06 one, is to attempt to put the elements in a part cular order
09 04 10 and require method steps. And ultimately, they've included
09 04 16 or imported into the claim a limit to phrase the
09 04 19 construction, a lim tat on of causes calculat on.
09 04 22 So, as I said, this disputed phrase is part of a
09 04 29 larger claim limitation. It's directed to the capability of
09 04 32 the plural ty of storage locat ons. As wr tten, it's
09 04 37 supported by the specif cat on. The claim describes the
09 04 40 storage locations are configured to store exposure time and
09 04 44 gain associated with a particular type of flash dev ce such
09 04 48 as, the two examples given in the patent, are LED and Xenon.
09 04 51 And the language in this phrase that is being
09 04 53 construed by the Defendants relates to the interrelationship
09 04 57 between the type of flash device, and ultimately, the
09 05 00 exposure or gain times that are going to or that are

5

09 05 03 1 appropriate for that type of flash. And so the stored
09 05 08 2 exposure and gain are, therefore, in response to an
09 05 10 3 indicator set to indicate the use of the particular flash
09 05 13 4 device.
09 05 14 5 THE COURT: So what's the relationship of those
09 05 16 6 two things? What does in response to mean? You know, tell
09 05 24 7 me some other words that would mean the same thing as in
09 05 26 8 response to.
09 05 27 9 MR. VOWELL: Well, I think here, if you look at
09 05 30 10 the larger phrase, the type of flash -- I'm sorry. Let me
09 05 34 11 back up just a minute.
09 05 38 12 So it's an ind cator that's set to indicate the
09 05 41 13 type of flash device, and then, ultimately, the exposure
09 05 46 14 time and gain are associated w th the flash dev ce in
09 05 49 15 response to the ind cator.
09 05 51 16 Now, we can come up w th other language, but
09 05 53 17 t's ultimately that the result, the stored values are
09 05 57 18 associated w th this and appropriate for. So other language
09 06 03 19 would be they're specific to a particular type of flash
09 06 07 20 device or appropriate for the particular type of flash
09 06 09 21 device that's going to be in use in the camera module or
09 06 11 22 with the camera module.
09 06 12 23 THE COURT: But you're not even really
09 06 15 24 addressing the phrase that's of the most interest to me
09 06 18 25 which is the in response to. I'm not that concerned about

6

09 06 21 1 the associated with, but what I'm trying to figure out is
09 06 25 2 what's the relat onship of the first larger phrase to the
09 06 31 3 second phrase of the indicator indicating the presence of
09 06 35 4 the first or second flash device?
09 06 38 5 MR. VOWELL: So, Your Honor, those two things go
09 06 40 6 in conjunction, so I guess that's my point is that what the
09 06 43 7 Defendants have done is --
09 06 44 8 THE COURT: No, don't tell me what the
09 06 45 9 Defendants have done, tell me what you believe it means. In
09 06 50 10 conjunction with is not the same thing as in response to;
09 06 52 11 right?
09 06 53 12 MR. VOWELL: Right, right. So if you look at
09 06 57 13 the phrases together, associated with and in response to,
09 07 00 14 those go together to indicate that the result, the resulting
09 07 05 15 values for exposure time and gain are appropriate for or
09 07 10 16 specific to a particular type of flash device, and that
09 07 14 17 there is an indicator that's set to ind cate which type of
09 07 18 18 flash dev ce so that, ultimately, the values will be
09 07 21 19 appropriate for that type of flash.
09 07 24 20 THE COURT: So the indicator indicating the
09 07 27 21 presence of the first or second flash device has nothing to
09 07 32 22 do with the storing and exposure time and gain, et cetera,
09 07 37 23 or does t have something that the indicator indicates the
09 07 44 24 presence of flash device, does t have -- you know, first
09 07 48 25 off, does that have to occur before the storing and exposure

7

09 07 52 1 time and gain?
09 07 53 2 MR. VOWELL: I don't think so, Your Honor, not
09 07 55 3 here in this apparatus claim. If this were a method claim
09 07 58 4 and it were ordered --
09 07 59 5 THE COURT: No, but it's a capability. I
09 08 01 6 understand what you're saying, Mr. Vowell, about method
09 08 03 7 claims and apparatus claims, but nevertheless, if it's a
09 08 07 8 capability of doing something and the capability involves
09 08 10 9 one thing occurring before another, then t has to have that
09 08 15 10 capability; right?
09 08 16 11 MR. VOWELL: Well, Your Honor, there is a
09 08 17 12 s tuation which the indicator could be set, but you have
09 08 21 13 default values, for example, for two different types of
09 08 24 14 flash devices. And then once the indicator is set, you
09 08 27 15 already automatically know. You don't have to calculate
09 08 29 16 those again, at least not at that time.
09 08 31 17 THE COURT: But the ind cator has to be
09 08 35 18 indicating something before the capability of storing, and
09 08 41 19 exposure time, and gain can actually be actuated; right?
09 08 45 20 MR. VOWELL: Well, not if they're default
09 08 47 21 values. If they're default values and you have default
09 08 51 22 values for two different types of flash devices --
09 08 53 23 THE COURT: Does the claim say anything about
09 08 56 24 default values?
09 08 57 25 MR. VOWELL: No, but that would be one

8

09 09 00 1 embodiment that would be covered by the claim. It could be
09 09 00 2 that they are set -- that they are calculated after the
09 09 02 3 indicator is set, but t could be that they're calculated --
09 09 06 4 THE COURT: But they wouldn't occur -- even if
09 09 08 5 they're "calculated before," they don't actually do anything
09 09 14 6 or have the capability of doing anything until after the
09 09 17 7 indicator has done the indicating; right?
09 09 19 8 MR. VOWELL: That's correct. The rest of
09 09 22 9 software and circuitry would have to know which flash device
09 09 26 10 is present to know which set of values to use.
09 09 29 11 THE COURT: Okay. So the indicator indicating
09 09 32 12 the presence of a first or second flash dev ce has to occur
09 09 36 13 before whatever stores the exposure time and the gain;
09 09 42 14 right?
09 09 42 15 MR. VOWELL: I don't think that's actually true.
09 09 44 16 I do agree with you that for the software to then put those
09 09 48 17 values into use, the ind cator would have to be set, but
09 09 53 18 they can already be stored as default values.
09 09 56 19 THE COURT: Oh, okay. But since t's a
09 09 59 20 capability, in the end, of doing something, the thing that
09 10 02 21 it's capable of doing has to, I guess, when it does do
09 10 11 22 something, work in a certain order that meets the rest of
09 10 15 23 the claim; right?
09 10 17 24 MR. VOWELL: Well, again, I don't want to sound
09 10 19 25 like a broken record, Your Honor, but there's not an order

09 10 22 implied here other than at some point the ind cator has to
09 10 25 be set to indicate the flash dev ce in order for the camera
09 10 28 module to ultimately be operable and use the proper --
09 10 34 THE COURT: Okay.
09 10 35 MR. VOWELL: -- values for the flash type.
09 10 36 THE COURT: Okay. Hold on just one second. Go
09 10 42 ahead, Mr. Vowell.
09 10 47 MR. VOWELL: Well, Your Honor, I'm happy to
09 10 48 answer more quest ons about that, but I'd prefer if you have
09 10 50 any further, let me know.
09 10 52 THE COURT: Okay. Well, maybe I should hear
09 10 54 from the other s de.
09 10 55 MR. VOWELL: All right. Thank you, Your Honor.
09 10 57 THE COURT: Thank you, Mr. Vowell.
09 11 07 MR. BLUESTONE: Your Honor, we have copies as
09 11 11 well, if I may come up?
09 11 13 THE COURT: Sure.
09 11 14 MR. BLUESTONE: Thank you very much. Thank you,
09 11 18 Your Honor.
09 11 18 This is Slide 16 of our presentat on. In
09 11 23 response to, as you said, clearly does call for something to
09 11 27 happen before. The issue that's being raised, if you can go
09 11 30 to Sl de 39, please, is this issue of, Hey, you're trying to
09 11 35 convert t into a method claim. There's nothing in the law
09 11 38 that says you can't have sequential steps.

09 11 42 THE COURT: Yeah. No, the running argument
09 11 48 about you're trying to convert things into method claims,
09 11 51 I'm not really buying that argument. I mean, maybe you are
09 11 55 trying to do that, but I think that, you know, even taking
09 11 59 this as an apparatus claim, when you have this long kind of
09 12 04 limitation, even if it's just a capability, it's a
09 12 09 capability to do var ous things as defined in the
09 12 16 limitation. So it's not -- but I am interested in, because
09 12 23 in the end, I think Mr. Vowell sort of got to the point that
09 12 27 I was trying to get to, and I'd be interested to know your
09 12 33 view on that.
09 12 34 MR. BLUESTONE: Sure. And I think on point is
09 12 37 this quest on of: Can they be default values? Does it have
09 12 40 to happen before?
09 12 41 And if you can put up Sl de 22, Mike. Before I
09 12 44 go on to this slide, as we did in our motion to dismiss
09 12 47 briefing, I think t's DI-9 and 10, any instance in wh ch a
09 12 52 digital camera is going to take an exposure, there's some
09 12 56 kind of calculation. It might well just be an interpolation
09 13 00 between knowing it's a bright scene or a cloudy scene, but
09 13 02 t has to know the present lighting environment.
09 13 05 So this question of, well, t can be default
09 13 08 values is not workable in a techn cal sense or in concert
09 13 10 w th what the invention is talking about. On Sl de 22 here,
09 13 13 we have the portion that's talking about the language of

09 13 17 associated w th, and I acknowledge that, but I think t's
09 13 19 highly relevant to why we're talking about in response to
09 13 22 from a techn cal standpoint.
09 13 24 At the top of this sect on, it's talking about
09 13 26 the view finder mode in Column 5. The view finder mode is
09 13 30 just saying, I'm taking -- I'm seeing what's coming into the
09 13 33 camera. This is the lighting environment now. And the
09 13 36 patent is talking about here, there's nothing special that
09 13 38 has to happen with the exposure and gain. I'm just going to
09 13 41 take it the normal way, calculate it normally.
09 13 43 The next step t's talking about, Hey, if I have
09 13 46 a flash and I have this image sensor, the image sensor
09 13 51 might, on a rolling shutter basis, take it chunk by chunk by
09 13 54 chunk. So if we imagine kind of a square array, t needs to
09 13 56 get all the slices processed with the light illumination
09 13 59 before it can do ts job appropriately.
09 14 01 So the second bullet point, if you will, on this
09 14 03 slide is saying, Okay, I need a longer exposure time for
09 14 06 this to work if I'm going to have a flash. Now, we get into
09 14 10 your question. Your Honor, thanks for your patience in
09 14 12 going through this.
09 14 13 Now, it's saying, Okay, when I'm going to take
09 14 16 this, I'm calculating the exposure time and gain to
09 14 18 compensate for the increased light of the flash. Right.
09 14 21 I'm not going to use the same time I keep the equivalent in

09 14 25 a film camera, the shutter open, right, if there's a flash
09 14 28 as if there was daylight.
09 14 30 The highlighted part at the bottom is why we're
09 14 32 getting to what the purported invent on is. It's not just
09 14 36 saying I'm going to calculate it gener cally. I want to
09 14 39 know the type of flash device.
09 14 40 So going back to Sl de 16, Mike, if you don't
09 14 44 mind. This is why it's saying in response to the yellow
09 14 48 language is what t's doing, and we can talk about
09 14 51 calculating differently when Your Honor wishes. But the
09 14 54 reason why t's saying ts response to is the stuff in pink,
09 14 57 the ind cator indicating a presence.
09 14 59 THE COURT: The stuff in pink which I would call
09 15 01 brown?
09 15 02 MR. BLUESTONE: Brown or salmon. Obv ously, our
09 15 04 color management needs to be improved.
09 15 06 THE COURT: No, colors never come out the way
09 15 09 you think they will come out.
09 15 10 MR. BLUESTONE: Yeah, of course. So the
09 15 11 ind cator part of t is where t's saying, okay, what do I
09 15 14 do to do this calculation? What do you need to tell me to
09 15 17 make this happen? I need to know from the indicator, are
09 15 19 you using a Xenon flash or are you using a LED flash? And
09 15 23 if we go through, for example, Figures 5, 7 --
09 15 26 THE COURT: But --

09 15 27 MR. BLUESTONE: Sorry.
09 15 28 THE COURT: -- let's assume, yeah, okay, that's
09 15 31 what the ind cator is going to do, tell you a different kind
09 15 33 of flash device. How does that impact the fact that the
09 15 40 camera may have, you know, the equivalent of lookup tables?
09 15 47 Does this kind of device do this or does that kind of dev ce
09 15 50 do that?
09 15 51 MR. BLUESTONE: So if we go to the next slide,
09 15 53 Slide 20 or Sl de 23, it's not the next one. I'm slightly
09 15 57 out of order. I know it's hard to see, but I'm just going
09 15 59 to use the blue and yellow to address what's going on.
09 16 03 THE COURT: Yeah.
09 16 03 MR. BLUESTONE: The color things have to change.
09 16 06 THE COURT: So I've also got the patent in front
09 16 09 of me --
09 16 09 MR. BLUESTONE: Great.
09 16 10 THE COURT: -- so I can read t actually.
09 16 14 MR. BLUESTONE: Terrific. If we look at these
09 16 16 port ons, basically t's Column 15, Column 7, and Column 9.
09 16 17 They're each dealing with different circumstances.
09 16 20 One is saying: Is it a Xenon light? One is
09 16 23 saying: Is it a LED light? What it's first going to do in
09 16 26 that blue, and I apologize, it's a l ttle hard to read, it's
09 16 29 going to say: What's the current lighting environment? Do
09 16 31 I need a flash?

09 16 33 Then t's going to go and say -- and those kind
09 16 35 of first yellow highlighted portions, Your Honor, and that's
09 16 39 Column 5, Line 30; Column 7, Line 48; Column 9, Line, I want
09 16 46 to say that's 37 or so, it's explaining exactly your
09 16 50 question. I'm going to go access this and tell me what
09 16 53 flash type it is.
09 16 55 Why do I want to know this? Well, the next of
09 16 57 t talks about the mode of calculation it needs to use now.
09 17 00 And that's the sections before. It says referring to
09 17 03 Figure 5, referring to Figure 7, referring to Figure 9.
09 17 06 It's not calculating it in the same manner anymore.
09 17 09 If it's a Xenon light, it can't control -- t
09 17 13 can't control the amount of time, the exposure. It's just
09 17 16 going to do a burst, right, like an old school flash, like
09 17 18 with the guy with the powder. That's basically what the
09 17 21 Xenon is doing. It's going to be a big bright bust, a LED
09 17 24 light. They can keep it going for a longer amount of time.
09 17 27 So as shown in Figure 5, for example, it's going
09 17 32 to go and talk about the exposure time. It's going to say,
09 17 35 I can control that flash, how long it's on, if it's an LED,
09 17 38 so I'm going to use this calculat on. But if it's a Xenon
09 17 41 light, I can't do much, so I'm going to focus on the gain.
09 17 44 Sorry if I went a little long, Your Honor.
09 17 46 THE COURT: No, t's all right.
09 17 47 MR. BLUESTONE: Okay. So essentially to get

09 17 49 back to your question, why are we doing this, because the
09 17 52 whole purported invention and what the examiner says and
09 17 56 first off ce action allowance is I'm doing these
09 17 58 calculat ons depending on what type of flash device t is.
09 18 03 That's the purported innovation. I have a small thing --
09 18 08 sorry.
09 18 08 THE COURT: So let's just stop for a second. So
09 18 10 the first office allowance, what that means is the inventor
09 18 13 sent in their appl cation here, and by return mail or
09 18 17 somewhere thereafter got something saying approved; right?
09 18 21 MR. BLUESTONE: Right.
09 18 22 THE COURT: So other than what the patentee put
09 18 26 in the specificat on, there are no statements by the
09 18 33 patentee, you know, disclaiming anything, explaining
09 18 37 anything, et cetera; right?
09 18 39 MR. BLUESTONE: That's absolutely fair. So if
09 18 41 we go to Slide 14, please, Mike. And to be honest, it's
09 18 44 kind of patent lawyer snark. When we go and say t's a
09 18 49 first off ce allowance, we're saying the examiner didn't
09 18 51 give us any reject ons to get any insight or really apply
09 18 54 it. So without being negative about t, I'll ignore the
09 18 57 first off ce allowance part of t.
09 18 59 But what he does say is highly relevant to what
09 19 01 we're talking about because it's intrinsic ev dence that
09 19 04 will inform a person of ordinary skill in the art what this

09 19 06 invention is about. So t is highly relevant.
09 19 09 It's not a disclaimer. We concede that. That's
09 19 11 not why we're using it, but it does help us to understand
09 19 14 why t says in response to.
09 19 17 The last highlighted section, which in
09 19 20 Plaintiff's arguments, they kind of ignore this, is really
09 19 22 what's important. Nowhere in the prior art is the concept
09 19 26 of determining the gain and exposure based on wh ch of the
09 19 29 several flash devices have been attached. That's the whole
09 19 34 purpose.
09 19 37 THE COURT: But I guess, then, I don't see how
09 19 40 that has anything to do with default values or anything else
09 19 43 or what Mr. Vowell's arguing about. It is, yeah, before you
09 19 51 start doing things about gain and exposure, the indicator
09 19 56 has to tell you whether t's a Xenon, or LED, or perhaps
09 19 59 some other kind of flash device.
09 20 01 But once t tells you that, if you've got, you
09 20 05 know, your program that for Xenon does this, doesn't that
09 20 11 meet the claim? Isn't that, you know, captured by the
09 20 15 limitat on?
09 20 16 MR. BLUESTONE: No, I don't think so. And can
09 20 19 we go to Slide 8 real qu ck? I think the issue at hand and
09 20 22 the confus on is because Plaintiff's posit on is somewhat --
09 20 27 well, it is substituting the flash signal for what the
09 20 31 indicator is. What they're essentially doing, and this is

17

09 20 35 in DI-11 at 10, when they first said we can't dismiss this
09 20 40 case on the pleadings because we need to do claim
09 20 42 construct on, their argument is that there's this strobe
09 20 46 signal in the accused products. And obviously, we're not
09 20 48 going to talk about what a strobe signal is. This isn't
09 20 51 infringement.
09 20 51 But they're saying the thing that turns on the
09 20 53 flash device is what we're saying the indicator is. If
09 20 58 that's the case, it has nothing to do with the invention
09 21 00 anymore. The thing that turns on the flash device is the
09 21 03 flash signal.
09 21 05 Go to Slide 9, please. And if you look at
09 21 08 dependent claim 6, it's not the case.
09 21 10 THE COURT: But I don't understand. I've lost
09 21 13 the thread of why do we care what turns on the flash device?
09 21 16 MR. BLUESTONE: We don't, but the reason why I'm
09 21 19 saying that is their argument is essentially to try to
09 21 21 convert the claim to say if you can pre-program this device
09 21 25 to say I know there's a flash signal, and I'm going to put
09 21 28 in a setting to say t's a Xenon flash, that's sufficient to
09 21 32 read on the claim.
09 21 33 It's not. Dependent claim 6 is the only time
09 21 36 we're talking about a flash signal. So all their default
09 21 39 values are trying to say what's turning on the flash, it's
09 21 42 wholly irrelevant. That's why we think the confus on is

18

09 21 45 raised.
09 21 45 THE COURT: You have to explain that to me
09 21 47 again.
09 21 47 MR. BLUESTONE: Sure.
09 21 48 THE COURT: Go back to claim 1. I understand
09 21 49 what you're saying about claim 6, generally.
09 21 51 MR. BLUESTONE: Okay.
09 21 52 THE COURT: Go back to claim 1 and explain to me
09 21 54 what it is that you're concerned about here.
09 21 56 MR. BLUESTONE: Sure. Slide 16, please.
09 21 58 So in response to us where this all kind of
09 22 05 started from, we have an indicator set to ind cate.
09 22 05 THE COURT: Yeah.
09 22 09 MR. BLUESTONE: The exposure time and gain are
09 22 09 associated with the first flash device, wh ch we can talk
09 22 12 about later, means how t's calculating differently in
09 22 14 response to indicator ind cating a presence in the first
09 22 17 device. You can't have a default value in their
09 22 21 circumstance.
09 22 21 In theory, you could pre-program it, but that's
09 22 24 not the point of the invention. The point of the invention
09 22 26 is these two cond tional wherein clauses, I'm going to do
09 22 29 this if that one is attached. I'm going to do that if this
09 22 32 one is attached, first or second device.
09 22 35 So default value is not really the point at all.

19

09 22 38 I guess you could have one, but that doesn't satisfy the
09 22 41 first limitat on of indicator which is saying, what is t
09 22 44 set to indicate, one or two?
09 22 52 THE COURT: I'm still not following you. So the
09 22 55 indicator says it's one. The ind cator says t's two. Why
09 22 59 can't the program then say, okay, you sa d one, here's what
09 23 05 we do in response to one?
09 23 07 MR. BLUESTONE: It can, absolutely. Is your
09 23 12 quest on directed to indicator set or what the in response
09 23 15 to is, Your Honor?
09 23 16 THE COURT: It was directed --
09 23 22 MR. BLUESTONE: And sorry.
09 23 25 THE COURT: -- more to the brown part, even
09 23 27 though I guess I don't understand why that would be -- in
09 23 37 other words, I'm not sure why it's not really directed to
09 23 39 the indicator set, but the indicator set is relevant to
09 23 43 this. Tell me why.
09 23 44 MR. BLUESTONE: Sure. Can you go to Slide 35?
09 23 46 So t says an ind cator is set to indicate. And
09 23 55 for the wherein clause, t says it's configured to. The
09 23 59 indicator set to ind cate would espouse a different meaning
09 24 02 than configured to. It's not saying capable to. It's set
09 24 04 to indicate. That's what I was trying to get to w th that,
09 24 07 Your Honor.
09 24 07 THE COURT: But, in other words, I don't

20

09 24 13 understand because the -- imagine this is just an off-on
09 24 18 sw tch. You could say the switch is set to indicate, you
09 24 26 know, whether it's on or it's off. And then why can't you
09 24 31 then have other stuff that's configured to do things in
09 24 36 reaction to whatever the ind cator indicates?
09 24 40 MR. BLUESTONE: Oh, so this is the quest on of,
09 24 42 hypothetically speaking, I have a product. I've
09 24 45 pre-programmed the indicator set to be one. Is that the
09 24 49 hypothetical is what the --
09 24 51 THE COURT: Well, no.
09 24 52 MR. BLUESTONE: Okay.
09 24 53 THE COURT: I think, isn't -- an indicator set
09 24 59 to indicate whether a first flash device or second flash
09 25 03 dev ce is present means that basically the indicator will
09 25 07 tell you if there is a first flash dev ce or a second flash
09 25 12 dev ce?
09 25 12 MR. BLUESTONE: I agree w th that, except to the
09 25 15 extent that we're talking about does it merely need to be
09 25 17 capable of.
09 25 19 THE COURT: So what do you --
09 25 24 MR. BLUESTONE: It doesn't say configured to
09 25 26 indicate. It says set to ind cate. And the reason why, as
09 25 31 we argued in our brief, is because this is a purely
09 25 34 functional limitation, something that ind cates this is
09 25 37 functional. What's the structure for this is this -- there

09 25 39 needs to be some structure. It's not the register. If you
09 25 42 look in the spec, it's saying the register stores an
09 25 44 indicator. It's just a value.
09 25 47 THE COURT: Okay. Well, let's skip that for a
09 25 49 minute.
09 25 49 MR. BLUESTONE: Of course.
09 25 50 THE COURT: But what I was trying to get you to
09 25 56 explain so that I could understand, maybe you have already
09 26 00 explained, but I don't understand is if the ind cator has
09 26 08 the capability of indicating the presence of a particular
09 26 13 flash dev ce, what it is that is required by the phrase in
09 26 23 response to once the indicator has made that indication.
09 26 30 What's the minimum that's required thereafter by the claim?
09 26 34 MR. BLUESTONE: So that, Your Honor, is then
09 26 36 relating to what associated with means. The context of --
09 26 40 THE COURT: Well --
09 26 41 MR. BLUESTONE: So --
09 26 41 THE COURT: -- maybe, but you're going to, like,
09 26 45 tie this into in response to?
09 26 48 MR. BLUESTONE: Correct. So if we go to Slide
09 26 49 16, and I'll just keep t simple. It's a cond tional
09 26 53 limitation. If t's set to one, something needs to happen.
09 26 57 This indicator needs to cause something to happen. If this
09 27 02 indicator thing is -- this indicator is set for flash two,
09 27 07 then it has to cause something else to happen.

09 27 09 THE COURT: Well, you know, cause is an
09 27 15 interesting word. I mean, if the indicator is set to one
09 27 20 and the camera registers that and then does something, you
09 27 28 know, with exposure and gain, that would be in response to;
09 27 40 right?
09 27 42 MR. BLUESTONE: Yes. Can we go to Slide 26?
09 27 46 This might be more helpful. This is what we're saying the
09 27 49 data operations are.
09 27 51 First, in one I have this ind cator that's set
09 27 55 to indicate. Second is going to be in response to that.
09 28 00 These things are associated with each other. So I'm
09 28 02 basically -- Your Honor, remember when I went back and I
09 28 04 said every dig tal camera has to do some calculation of
09 28 08 exposure time and gain. This is interceding in between to
09 28 12 say, okay, I'm going to calculate this exposure time and
09 28 14 gain in this manner.
09 28 16 So the organization of the claim, which is not
09 28 19 in order, is one, there's this indicator that's set.
09 28 22 Two, these things are done in response to this.
09 28 26 They're associated with.
09 28 27 And then, three, that's the values I'm going to
09 28 30 put into the register that stores exposure time and gain.
09 28 33 Whereas, in the default mode of operat on, if there's no
09 28 36 lighting issue, if you're going to use daylight, it's never
09 28 38 going to do two or three. It's never going to -- one is

09 28 42 irrelevant because it's just going to do the normal way of
09 28 45 what step three is, putting exposure time and gain. When
09 28 48 you're using the purported invention, you're stepping in to
09 28 52 say don't do it the normal way, do it this different way.
09 28 58 So in response to is a condit onal limitation,
09 29 00 an if-then thing that happens in the claim. They're not
09 29 04 both happening at the same time. Only one's happening
09 29 07 depending on what step one says.
09 29 11 THE COURT: But I guess -- all right. Do you
09 29 17 have anything further?
09 29 19 MR. BLUESTONE: No, Your Honor. I can go to the
09 29 21 other issues when they come up.
09 29 23 THE COURT: Let me see if Mr. Vowell has
09 29 25 anything he wants to say in response.
09 29 27 MR. VOWELL: Your Honor, I'll keep this very
09 29 31 brief. It's just to say that Plaintiff believes the plain
09 29 35 and ordinary meaning should apply. We had quite a b t of
09 29 37 discussion about what we think the plain and ordinary
09 29 39 meaning and what the Defendant thinks how the claim should
09 29 43 be limited. So our view is that, instead of importing
09 29 47 limitat ons, it should take on the plain and ordinary
09 29 49 meaning and as it's written in the claim.
09 29 50 That's all I have, Your Honor, unless you have
09 29 52 any further questions on that term.
09 30 01 THE COURT: And you agree, I think you've

09 30 12 already sa d this, but the capabil ties you're talking about
09 30 16 here is the ind cator indicates the presence of some flash
09 30 20 device; and thereafter, in response to that, the exposure
09 30 28 time and gain that would be connected with that dev ce,
09 30 46 there is some kind of exposure time and gain that are -- you
09 30 53 know, the verb doesn't matter so much, but identified,
09 30 56 developed, named that are then stored. That's what sort of
09 31 02 the capability, how those things would work, what the
09 31 05 capability is, what t's capable of doing?
09 31 08 MR. VOWELL: They may already be stored at that
09 31 11 time when the ind cator is set to ind cate because you could
09 31 13 have values for different types of flash devices.
09 31 16 THE COURT: Yeah, so I don't think -- so if
09 31 44 they're already stored, what is the signif cance of the
09 31 48 phrase in response to?
09 31 49 MR. VOWELL: It would be if you have values for,
09 31 52 for example, two flash devices, two different types of flash
09 31 55 devices stored, it would be -- then you would know which set
09 31 59 of values you're going to be using in operation of the
09 32 02 camera.
09 32 03 THE COURT: Okay. All right. Thank you.
09 32 06 MR. VOWELL: Thank you, Your Honor. And at this
09 32 07 point, Plaintiff would be prepared to argue the other terms.
09 32 11 THE COURT: Well, since your view is plain and
09 32 14 ordinary meaning, why don't I let the Defendants go first.

25

09 32 16 MR. VOWELL: Thank you, Your Honor.
09 32 17 THE COURT: Defendant. So you can p ck
09 32 22 wh chever one you want, Mr. Bluestone.
09 32 24 MR. BLUESTONE: Thank you, Your Honor. One
09 32 25 brief point I want to make. Sure, we address here --
09 32 27 there's this statement that Plaintiff's counsel raised that
09 32 30 you can have values for different flashes. From a techn cal
09 32 33 standpoint, you can't simply have values associated with the
09 32 35 flash's exposure time and gain. Slide 23, I think it was,
09 32 40 exposure time and gain calculations need to know what's in
09 32 44 blue, the current lighting environment.
09 32 46 With that, I'll turn to -- or sorry, if you have
09 32 48 any quest ons on that, Your Honor?
09 32 50 THE COURT: Well, I mean, why can't the values
09 32 53 that would be stored as if the lighting conditions are X,
09 32 56 then the value was Y?
09 32 58 MR. BLUESTONE: It could. That's correct.
09 32 59 THE COURT: Okay.
09 33 00 MR. BLUESTONE: You could have those things
09 33 01 stored, pre-stored. My point is you can't have values that
09 33 04 are associated solely to a flash device. Right. I can go
09 33 08 and say if the lighting environment is exactly this much of
09 33 13 illuminat on, do this. In practical ty, you'll interpolate
09 33 17 between those two values, but it always needs to take a
09 33 20 measurement of the current lighting and apply it.

26

09 33 22 My point is, Your Honor, the argument of we can
09 33 24 just have values tied to a flash tself, it doesn't work.
09 33 28 That's not -- it's not technically possible if you're taking
09 33 31 a p cture.
09 33 32 THE COURT: And that goes to which of these
09 33 36 construct ons?
09 33 37 MR. BLUESTONE: That goes to their argument that
09 33 39 in response to, you can just have default values for those.
09 33 42 It can't be just default values. The values --
09 33 45 THE COURT: The default values -- I mean, I
09 33 50 guess it depends on what you mean by default values, because
09 33 54 I think the default value is if this, then that. And even
09 33 58 if you have to interpolate between the two of them, why
09 34 02 aren't those just stored values?
09 34 03 MR. BLUESTONE: You can have stored exposure
09 34 05 time and gain values, in theory, is what they're saying.
09 34 09 But in a practical reality, your exposure time and gain is
09 34 13 calculated for every single time you take a p cture. So if
09 34 16 you're standing w th your old-school SLR camera and you had,
09 34 19 you know, ISO 100, you know, this would be the old Nikon
09 34 24 camera, and you had t in auto mode, it's figuring out how
09 34 27 long to keep that shutter open and closed.
09 34 29 You take a picture. Here, it's taking an actual
09 34 31 light measurement. A light sensor is going to say how much
09 34 34 light is here. It's going to say keep the shutter open for

27

09 34 37 this long. If we go outside and t's sunny, it's going to
09 34 40 have that shutter speed slower.
09 34 42 That's my point, Your Honor. These numbers,
09 34 43 exposure time and gain, are calculated at the time of the
09 34 46 snapshot irrespective.
09 34 48 THE COURT: By the way, the claims here, the
09 34 54 claims themselves are not limited to mobile phones; right?
09 34 58 MR. BLUESTONE: No, Your Honor.
09 34 58 THE COURT: I mean, they could be just any
09 35 00 camera?
09 35 01 MR. BLUESTONE: It's a camera module.
09 35 02 THE COURT: Right, but I mean, it could be a
09 35 05 camera module in a camera?
09 35 06 MR. BLUESTONE: Correct.
09 35 07 THE COURT: Okay.
09 35 07 MR. BLUESTONE: Our position is not -- it's not
09 35 09 limited by the structure that's accompanying the camera
09 35 13 module. And the claim doesn't even call for a lens, for
09 35 16 example. It's just this image sensor array, a gain
09 35 21 amplifier. So bas cally the exposure time, the gain and
09 35 25 memory, that's t.
09 35 27 THE COURT: Okay. All right. So what are you
09 35 30 talking about now?
09 35 30 MR. BLUESTONE: Can we talk about indicator,
09 35 32 Your Honor?

28

09 35 33 THE COURT: Sure.
09 35 33 MR. BLUESTONE: Let's go to Sl de 6, please. So
09 35 39 this is the claim language we already discussed in the
09 35 42 brown, orange, or whatever color it may be. Go to Slide 7.
09 35 49 There's two key issues I want to get across
09 35 52 here. One is Plaintiff is saying we're going to apply the
09 35 56 plain meaning. They're not applying any plain meaning that
09 35 59 could be ascribed to is present.
09 36 01 In their brief at Page 17, so DI-52 at 17,
09 36 06 they're saying is present means ultimately paired with. So
09 36 10 as a first point, we just want to make sure that we're in a
09 36 13 posit on almost -- well, like 02 Micro where we're not
09 36 17 agreeing to the plain meaning. This isn't a question of,
09 36 20 oh, they're trying to narrow it. We don't even agree on
09 36 23 what the plain meaning is.
09 36 24 So under essentially 02 Micro, because we have a
09 36 29 claim dispute here, we can't just say plain meaning because
09 36 32 we don't know what their plain meaning is.
09 36 33 THE COURT: Well, you might be wrong about that.
09 36 36 MR. BLUESTONE: I might be, Your Honor, and I
09 36 37 would, obv ously --
09 36 38 THE COURT: But tell me this, because I or I
09 36 43 remember reading this is present, but I don't think I
09 36 46 understood what your argument was or is.
09 36 52 MR. BLUESTONE: We have no -- we say is attached

29

because that's what the examiner says, and that is a plain meaning of what is present means in the context of this claim. We're proposing to you an understood, plain meaning.

If Plaintiff agreed that is present ascribes the normal plain meaning, not what could be in the future, but what is here right now, we wouldn't have a dispute as to the plain meaning. In other words --

THE COURT: And I guess I'm not sure that I understand the dispute here then because you could have an indicator, I suppose, set to ind cate whether a first flash device or second flash device is present. And if such a device is attached, that's going to be is present. And it will, I guess, indicate something. And if t's not attached, and it's not present, it's going to indicate something else.

What other kinds of options are there?

MR. BLUESTONE: I think that's right, Your Honor. The option that's being presented by Plaintiff is that it's what may ultimately be paired with that we're taking issue with.

THE COURT: Well, isn't this really, then, just a question of, you know, what point in time are you looking at this module? Because at some point in time is going to have -- well, it could be just a question point of time because if -- I guess if nothing is actually present at a

30

part cular instance in time, what is the significance? Because if later on if something is present, and an indicator indicates it's present, it at least at that time is meeting this lim tation; right?

MR. BLUESTONE: Yes, Your Honor. By way of, let's say, an analogy, an indicator is going to assess what a condition is, right. I can have a speedometer that's indicating how fast am I going.

THE COURT: Sure.

MR. BLUESTONE: You could have that in a plane. It doesn't really -- like I could have that indicator in a flight simulator that's saying it's 500 knots. It's still saying t's at 500 knots. So an indicator in this is: What is the present condition? Tell me what the present condition is.

Specifically here, flash device one or flash device two, that's what the ind cator is. What they're trying to change it to is almost a compatibility test, not at all what is going on, but what may I use in the future. What flash devices could I use?

THE COURT: Well, I guess what I don't understand is this may I use in the future.

MR. BLUESTONE: Your Honor, that's their argument. I'm happy to defer and let them explain why it's what may ultimately be paired with. Our point is that's not

31

a plausible plain meaning. And if they're saying you have to set forth a plain meaning, our concern is we have an Order that says plain meaning. We go before the jury, and now they're arguing before the jury, Oh, this thing shows it's compatible, and that's as to what's present. That can't be a plain meaning.

THE COURT: All right. Okay. So you sa d you have two disputes here.

MR. BLUESTONE: Sure.

THE COURT: What's the other one?

MR. BLUESTONE: The other one is really like low-hanging fruit. If we go to Slide 9, their argument, and if they put up their Slide 9 -- Slide 7, pardon me, of their pos tion. They're going to go and be highlighting this flash signal, Figure 6 and 8. And I'll let them get to it, but what's important here, Your Honor, is regardless of the plain meaning, even if we don't know what any of these things mean, we know for sure by virtue of dependent claim 6 and the supporting language in the spec that the indicator is not a flash signal. They are two separate things.

The stuff in the brownish orange, whatever color we want to say, is the indicator. The blue is a flash signal. By virtue of just grammar and claim construction, these two are not the same thing.

If we go to Slide 8, this --

32

THE COURT: Well, they're not the same thing in the dependent claim. This doesn't necessarily mean they're not the same thing on the independent claim; right?

MR. BLUESTONE: I disagree with that, Your Honor, and here's why. If I have a claim that says A, B, C and D, and I have a dependent claim that has element E, then B is not the same thing as E. This is not a circumstance where the dependent claim is modifying an existing one. For example, if claim 6 says --

THE COURT: Because your point is flash --

MR. BLUESTONE: Flash signal is an addit onal claim limitat on that's being added. So if I have a claim on a pencil, and I have a dependent claim that says wherein I add an eraser, the eraser is not the pencil. And what they're trying to do, under what we can glean from their pos tion, is say you infringe, or we're going to argue an infringement theory, rather, Your Honor, based on the flash signal. The flash signal has nothing to do with claim 1.

If they're asserting claim 6, happy to go there. And the evidence of this, Your Honor, is in Slide 8 where at the in tial stage of this case we said, there's no basis for this case. Sorry.

THE COURT: But what does flash signal have to do w th the dispute on the first, the indicator term?

MR. BLUESTONE: Right. Exactly, Your Honor. We

33

would glean from their proposal of plain meaning that they're going to argue to the jury that you can satisfy the indicator claim element by looking at the signal that turns on and off a flash dev ce. And our pos t on is, by a matter of law of claim construct on, they can't go -- Slide 9, please -- they can't go and make that argument. They're legally precluded from that because the flash signal cannot be, as a matter of claim scope, the ind cator.

THE COURT: Yeah, that doesn't seem to me to be so much a claim construction argument, as a summary judgment argument.

MR. BLUESTONE: Well, Your Honor, I'd be happy to entertain what Plaintiff's posit on is, whether they're going to say t doesn't cover the claims of the flash signal. Their posit on is with this, we don't have a dispute here. But I think from what we've gleaned in the non-responsiveness of this issue in the briefing is they want to say the indicator can be this flash signal.

THE COURT: What is a flash signal?

MR. BLUESTONE: A flash signal is in any instance you're turning on a flash, you need to have a trigger that's going to say turn on, turn off. It's a light switch. So when I go and I -- in the patent when t's talking about the flash signal when they show their slide --

THE COURT: And as a matter of general --

34

leaving as de the claims, is there some reason why a flash signal couldn't say, We got a Xenon device, let's go?

MR. BLUESTONE: That would not result in a change in exposure time and gain without something else happening. You could -- in theory, I think your argument is, hypothetically speaking, what if I have a flash signal that's telling me what type of flash I'm going to use. Is that kind of what --

THE COURT: I mean, I guess. You know, based on what you said a flash signal is, and your main argument about it seemed to be that it couldn't be the same thing as an ind cator because of the way the claim is set up. But in terms of whether you could have, you know, an indicator that decides for ind cating which device is attached or present also says, okay, trigger t.

MR. BLUESTONE: You could have a hypothetical dev ce in which the flash signal is not merely just outputting. And this is the subject of what our motion to dismiss was, Your Honor, but t is, again, relevant to the claim construction here as well. You could hypothetically have a flash signal that has output that says, I know this is an LED, and then loops that information back in, and the system calculates exposure time and gain.

It can't be something that is merely a light switch that doesn't tell the system what to do at all. This

35

relates back to in response to. Right. It's got to effectuate a change in the system. It can't be merely I'm turning something on or off.

We argued this, just for background context, at DI-11 at 10. Sorry. That's the Plaintiff's position to avoid the ruling on mer ts. They said, Look, whether the strobe signal, this light switch on or off is encompassing the claims, is a matter of claim construction. Now, that we're at claim construction, they are saying we don't need to construe the claim.

So that was kind of my 02 M cro issue, Your Honor. We clearly have a claim dispute. You can say plain meaning, but we need to know, at a minimum, that it's not the flash signal, which is what Slide 9 is showing.

So to your point, Your Honor, I think you raised a very, very good point of, well, what about this hypothet cal device that's combining both of them? Yes, you could have both of those limitations be met in some accused product, structure, absolutely, but the claim requires that you have an ind cator that is going to tell you what that is that's going to be used for the purpose of effectuating a change.

THE COURT: Well, so if you agree that you could have a device that does both at once, then if you have a dependent claim that says this is a dev ce where it doesn't

36

do it both at once, haven't you then narrowed the scope from the independent claim? And yet, it doesn't mean the independent claim couldn't include devices that do it both at once.

MR. BLUESTONE: The independent claim, absolutely, could have a device that includes both at once, but t has to absolutely do what claim 1 requires which is serve as an indicator. It can't just be a light sw tch. It has to tell you the light is on and it's this type and effectuate a change in the system. It can't merely be an output signal that's going to say lights are on.

THE COURT: All right. And I don't see how -- I mean, part of t is I don't understand how your proposed construct ons -- yeah, okay. They're different than the plain meaning, but I don't understand how they tie into the argument that you've actually been making.

MR. BLUESTONE: Fair enough, Your Honor. Let's go to Slide 10. So our construct on is a stored value identifying whether a first or second flash dev ce is attached to the camera module.

Let's start from the end and go to the beginning, if that's okay. Attached to the camera module is saying, is t present? That's it. If Your Honor is fine with is present and their position is not it may be ultimately paired with, t's just something that's here,

37

09 47 59 we're fine w th is present. We're using attached to try to
09 48 02 give us a word for what it means.
09 48 06 Identifying is what the indicator has to do.
09 48 08 It's effectuating knowledge to the system. I know flash one
09 48 13 or flash two is there. So indicate and dentify, we're
09 48 17 using again a synonym. Stored value is -- let's go to Slide
09 48 21 11, please.
09 48 23 In Column 1, lines or Column 3, Lines 1
09 48 26 through 6, it says register is configured to store a
09 48 31 flash-enabled flash-type indicator. This is telling you in
09 48 35 the claim, it's not saying I want the physical structure of
09 48 37 a register. That's what's in the stored -- in the
09 48 40 plurality of storage locations. It's saying it's a stored
09 48 43 value. In their brief, they said something like a register
09 48 46 may serve as an indicator.
09 48 48 No, the indicator is what's in the register. So
09 48 51 stored value is our best attempt, Your Honor. It's trying
09 48 54 to give some structure to what this value is.
09 48 59 Your question was, Your Honor, though, how does
09 49 01 this relate to the arguments we're making. Our point is --
09 49 04 go to Slide 10 again, please, and put the construction back
09 49 07 up. Our point is a flash signal is not a stored value. It
09 49 12 is a waveform that's going to turn on and off. The waveform
09 49 17 meaning like a voltage that's going across.
09 49 20 Let's say, for a Xenon flash, all I have to do

38

09 49 24 to turn it on, and you'll probably see this in their Sl de
09 49 26 7, Your Honor. In their figure, Figure 8 of the patent, the
09 49 31 Xenon flash trigger is just a burst. It just goes high.
09 49 34 Turn on. Right. W th the LED flash, it signals a different
09 49 39 shape.
09 49 40 Those two things are not stored values
09 49 42 dentifying what's there. They're just the format of the
09 49 45 light switch turning on and off.
09 49 48 So our argument is this construct on makes sure
09 49 53 that claim 1 and what it is is not overreaching to claim 6,
09 49 58 flash signal.
09 49 59 THE COURT: All right.
09 49 59 MR. BLUESTONE: Thank you, Your Honor.
09 50 00 THE COURT: Thank you. Mr. Gunter.
09 50 09 MR. GUNTER: Good morning, Your Honor.
09 50 09 THE COURT: Good morning.
09 50 10 MR. GUNTER: So if I could address just a few of
09 50 13 these points, if the Court would allow. I think part of the
09 50 16 disconnect here is that we're wanting to focus on the
09 50 20 indicator and the capability of the indicator, whereas the
09 50 25 Defendants are wanting to focus on the flash device and the
09 50 27 presence of the flash dev ce.
09 50 29 So the claims are really directed towards the
09 50 32 capabil ty of the ind cator. It's an indicator that is set
09 50 35 to ind cate, and t doesn't require actual attachment.

39

09 50 40 So there was a lot -- Mr. Bluestone went through
09 50 43 quite a bit just a minute ago walking through some of these
09 50 46 steps that he sees happening, and he was kind of reordering
09 50 49 claim 1, one, two, and three steps. Our point is that the
09 50 54 flash dev ce isn't actually even a claim limitation.
09 50 58 And if you go and look at, for example, one of
09 51 00 the preferred embodiments, Figure 1, it shows the camera
09 51 08 module of claim 1. For example, this is one preferred
09 51 11 embodiment, and you'll see that the camera module is
09 51 13 highlighted in red or brown on the screen up here. And the
09 51 17 flash dev ce 114 is down at the bottom. It's not included
09 51 20 in claim 1. It's not a part of claim 1. It's not a
09 51 23 limitation of claim 1.
09 51 24 And so it's unnecessary and unfair to require
09 51 29 that the claim includes the flash device. Instead, what
09 51 34 claim 1 is doing is it's directed towards the indicator set
09 51 37 to indicate, and the fact that it has the capability to
09 51 40 indicate a flash device.
09 51 42 So let's take, for example, Mr. Vowell earlier
09 51 46 gave a hypothetical to the Court of whether there's default
09 51 48 values or what if whenever this device is manufactured, you
09 51 52 could have something set at that time. And it could be an
09 51 56 indicator that is set to indicate whether, let's say,
09 51 59 ultimately, to your point, Your Honor, can these devices be
09 52 02 used with phones, or tablets, or cameras.

40

09 52 05 Well, what if at the time of manufacture, your
09 52 08 setting that you think you want it to be on a tablet that
09 52 10 has a LED flash type, you could set it. You could have an
09 52 13 indicator set to indicate that it would be used with LED.
09 52 16 It then, ultimately, could be paired with a tablet that has
09 52 20 an LED. But what matters for purposes of claim 1 is that
09 52 24 it's an indicator set to indicate that it's going to
09 52 26 ultimately be w th an LED.
09 52 28 So I think that's where we saw the disconnect
09 52 32 happening. It's really the actual attachment versus
09 52 35 capability.
09 52 36 And if I could also hit --
09 52 38 THE COURT: So I mean, basically is present, is
09 52 41 attached, your argument is the same no matter wh ch language
09 52 44 is used; right?
09 52 45 MR. GUNTER: We see is attached as being actual
09 52 49 attachment and focusing on --
09 52 50 THE COURT: And how come is present isn't actual
09 52 53 presence?
09 52 53 MR. GUNTER: I think, keeping it the way that
09 52 55 the plain and ordinary meaning as written for the claim
09 52 58 language, it's talking about the indicator set to indicate,
09 53 02 whether that's present.
09 53 03 THE COURT: Yeah, well or set to indicate
09 53 05 whether it's attached, aren't those the same things?

41

09 53 07 MR. GUNTER: In our mind, they're not. In our
09 53 09 mind, attached requires the actual attachment. And I
09 53 13 believe that's what I heard Mr. Bluestone say is that he
09 53 15 wants there to be an actual attachment because he's wanting
09 53 19 to walk through a series of events of things that are
09 53 22 happening. You're attaching a flash dev ce. You're
09 53 24 dentifying a flash device. You're calculating --
09 53 27 THE COURT: Well, I don't understand bas cally
09 53 29 what you all are arguing about, because to me saying is
09 53 32 present or is attached is the same thing. And because the
09 53 35 inventor sa d is present, I'm going to go with is present,
09 53 39 not is attached. That doesn't mean there isn't a dispute
09 53 42 here, but I don't think it's over whether the word is
09 53 45 present or attached.
09 53 48 You know, it's not like the indicator is going
09 53 50 to say we think in the room somewhere there's a flash
09 53 56 dev ce. So it's present. You know, it may not be attached.
09 54 03 So I think that's -- I don't think there's any -- I don't
09 54 09 think what the Defendant is proposing is anything other than
09 54 13 doing a synonym, so I'm not going to do that.
09 54 16 But your view is indicator set to indicate
09 54 24 whether a device is present basically is referring -- not so
09 54 30 much is referring to -- I mean, essentially you're talking
09 54 38 about a computer program where, you know, somewhere in there
09 54 43 t says is the device attached; yes or no? And at some

42

09 54 50 point when the computer program is in some kind of device,
09 54 56 then we're that much closer to being able to answer the
09 55 00 question.
09 55 01 Is that right?
09 55 02 MR. GUNTER: I believe that's correct. And I do
09 55 07 agree with Your Honor when you noted that this really seems
09 55 10 to be a substitut on of words, which we think is improper at
09 55 14 this stage of claim construct on.
09 55 16 THE COURT: Yeah, I'm not much for substituting
09 55 18 words that I think that, as far as I can see, don't really
09 55 21 change anything. You know, the inventor picked is present.
09 55 25 That works for me.
09 55 27 So let me just go on a s de note. I take t
09 55 39 that, I think Mr. Bluestone said this, you agree the claims
09 55 43 here, they don't require anything that this could actually
09 55 47 just be a dig tal camera; right?
09 55 49 MR. GUNTER: Yes, Your Honor, it is.
09 55 50 THE COURT: Or I mean, t could be in a digital
09 55 52 camera as well as a phone, or a tablet, or whatever?
09 55 56 MR. GUNTER: Yes, Your Honor. I think these
09 55 58 dev ces would find their way in a multitude of consumer
09 56 02 electronic products, tablets, laptops, phones, cameras. I
09 56 06 don't think claim 1 is specific to --
09 56 10 THE COURT: Well, none of the claims are
09 56 11 specific, are they?

43

09 56 12 MR. GUNTER: No, Your Honor.
09 56 13 THE COURT: Okay. Do you have anything to say
09 56 31 about this, what Mr. Bluestone was talking about of flash
09 56 36 device versus indicator in claim 6?
09 56 39 MR. GUNTER: So I would agree with you that that
09 56 42 does not appear to be really a claim construction argument
09 56 45 because it's not part of their proposed claim construction.
09 56 49 We don't see it as being a differentiation, part cularly not
09 56 53 a differentiat on of signals as a whole. We've prov ded a
09 56 56 couple other examples here at the center of our screen. The
09 57 00 second main bullet point of other examples in the
09 57 03 specificat on that an indicator could encompass. The
09 57 07 specificat on talks about signals, for example, that can be
09 57 11 set. That's in Column 3, Lines 33 to 36, and also shown in
09 57 15 Figure 1. Those are examples of control signals that could
09 57 19 be set for indicating. Also, instructions. It's listed in
09 57 22 Column 2.
09 57 23 So we don't see it as being, you know, an
09 57 26 exclusion of an indicator only being the stored value in a
09 57 30 register. It can be other things. And we don't see claim 6
09 57 33 as reading those out.
09 57 35 THE COURT: So, okay. So, but in terms of the
09 57 40 phrase, which I guess is actually an ind cator set to
09 57 45 ind cate whether a flash device or a second flash dev ce is
09 57 52 present --

44

09 57 55 MR. GUNTER: It's --
09 57 55 THE COURT: -- there has to be present in the
09 58 08 module that ind cator. What does it mean set to indicate?
09 58 19 MR. GUNTER: Okay. So there are several ways
09 58 22 that I think an ind cator can be set to ind cate. One would
09 58 24 be in the preferred embodiment where t does talk about
09 58 27 registers, and t has ind cator in the register. That's
09 58 32 shown at Figure 1 and 2. But there are other examples that
09 58 36 the specif cat on gives, such as control signal, control
09 58 40 circu ts and signals.
09 58 42 THE COURT: And I guess what I meant is up
09 58 47 there, you say, you know, something capable of ind cating,
09 58 54 but that's not the language of the claim. The claim is an
09 58 58 ind cator is set to indicate, not an indicator capable of
09 59 02 ind cating; right?
09 59 04 MR. GUNTER: It is an indicator set to indicate.
09 59 06 We think that goes towards the configurabil ty of capabil ty
09 59 10 of that indicator. And so if you -- you know, from a high
09 59 13 level, I'll try to give another real-world example.
09 59 16 THE COURT: Well, so before we get to the high
09 59 18 level, are you saying that it should be construed as an
09 59 23 ind cator capable to ind cate?
09 59 25 MR. GUNTER: I think we'd be okay w th that or
09 59 27 an indicator to indicate --
09 59 30 THE COURT: But where are you getting that from,

because that's not the language, as I think is pointed out in the briefing later on. You know, the patentee talked about something being configured to do something. It talked about it at least three times in the wherein clause, but there's no capable of configured to indicate here. And there's all kinds of claim construction principles that suggest that if you have that kind of language one place, and you don't have it some other place, they mean two different sorts of things; right?

MR. GUNTER: I would agree with you generally, yes. I think our view is that the claim as a whole is really talking about the capability of the apparatus, and so we don't see this limitation as being different.

THE COURT: But it's really not. You know, the first thing is image sensory array. Nothing about capability there. A gain amplifier, nothing about capability there. You know, a plurality of storage locations. I mean, you know, you all said, if you sa d t once, you sa d t 50 times in the brief, this is an apparatus claim.

And so an apparatus of an indicator set to ind cate does not sound to me like an indicator capable of ind cating. It sounds like something more apparatus, but I'm not sure exactly what that would be.

MR. GUNTER: And I think t would be Plaintiff's

position that, for example, the two alternatives that you gave earlier about operable to, for example, that's how we would view this claim lim tation. It's really going towards the capability and configuration or configurability of the ind cator set to indicate.

THE COURT: All right. Do you have anything else on this?

MR. GUNTER: Your Honor, very briefly. I just wanted to point the Court's attent on to the language that was used by the examiner in the notice of allowabil ty. There was some confus on in the briefing about what exactly the Defendant was pointing to. So we -- as Sl de 13 here, we've just included a copy of the entire statement from the examiner. And our point here is that the examiner was not making statements that were distinguishing the prior art at issue on the basis of whether or not it was a camera or, excuse me, a flash device that was actually attached. What the examiner was doing here was drawing a distinction between the pr or art that showed one flash dev ce versus the patent wh ch has operability with two flash dev ces.

And w th that, I'll sit down.

THE COURT: All right. Thank you.

All right. Mr. Bluestone.

MR. BLUESTONE: Thank you, Your Honor. I think we're on -- there's been much talk about that we're making

this argument that it has to be actually attached. That's not our posit on. The first and second dev ces, it's never been our pos tion.

In the joint brief on Pages 22 and 23, you see us say indicator may or may not be set accurately, but it must ind cate that there's a first or second flash device, that a first or second flash device is present. To put it plainly, the flash devices are required, but the indicator must be set to indicate the presence of a first and second flash dev ce.

To the extent that Plaintiff keeps saying we're requiring that there has to be one attached, that's not correct. That's not the position we've cited.

By way of the analogy we had before about an airspeed indicator and some flight computer, I can be putting t on a flight simulator on the ground and feeding in some settings and have over 500 knots. That system can go and say, yes, it's set and run, even though I've never left the ground and the plane isn't moving. The indicator is set that it's over 500 knots. It doesn't matter whether it's accurate to the real-world environment. All it requires is that indicator is set. So to the extent that we're hearing, oh, it has to be attached, that's not our pos tion.

Second, we agree, Your Honor, with where you're

going w th is present is fine. We agree that indicate is fine. The funct onal language of indicator seems to be in agreement so long as they're not saying is present means compatible or ultimately prepared -- ultimately paired with.

The question that we haven't heard from them is: What is the structure of this indicator? Is it a person looking at the dev ce and saying, oh, I see there's a first or second flash?

THE COURT: I think Mr. Gunter just had some various things that he sa d t could be. I mean, you know, I think it's the case that there's a specific embodiment in the patent in the specification, and obviously, indicator is a broader term. And that the Plaintiff is saying, so bas cally we've given you an example, and here's the broader term, so it covers other things.

MR. BLUESTONE: Right. The quest on in my mind is the converse: What doesn't it include? This is an apparatus claim. What is this indicator not? They're saying it could be circu try. Okay. Stored value is the only thing we say supports t. If they want to add circu try, we can listen to that.

My quest on for them is: What is the structure? What's the bounds of this construction of what this indicator is? Is it a nonce word? Are we at a means-plus-function scenario? So our best attempt at

10 05 17 structure that scored value is to take the spec and put some
10 05 21 structure into what it is.
10 05 22 And the third point, Your Honor, I want to
10 05 25 address is the flash signal issue. Again, I just want to
10 05 29 make sure we understand what their position is now,
10 05 31 because if you go to Slide 8 of the presentation, this is
10 05 36 clearly an issue that is in dispute and has been in dispute
10 05 39 since the beginning of the case. Their own words are, t's
10 05 42 improper to resolve this issue on whether it can just be an
10 05 46 output signal, i.e. a flash signal until you do a claim
10 05 51 construction.
10 05 51 THE COURT: Well, just because they sa d
10 05 52 something in a brief, you know, a year ago doesn't mean it's
10 05 55 now something that I have to say, Okay, yeah, I agree with
10 06 01 you.
10 06 02 MR. BLUESTONE: I see your point to that, Your
10 06 04 Honor, but I raise this because of, again, and I don't want
10 06 08 to offend by referencing 02 Micro again, but --
10 06 10 THE COURT: No.
10 06 11 MR. BLUESTONE: -- this is where there's a clear
10 06 12 dispute.
10 06 13 THE COURT: I get used to people saying 02
10 06 15 Micro.
10 06 15 MR. BLUESTONE: I'm sure you do, Your Honor, but
10 06 17 this is one of those very clear instances where this is in

10 06 19 dispute. Sl de 9, please. This is a claim construction
10 06 23 issue.
10 06 23 If you look at their Slide 11, they're saying
10 06 26 this is a non-infringement position. Whether or not the
10 06 29 blue --
10 06 29 THE COURT: But you know, I really don't think
10 06 31 that the way your construction, your proposed construction,
10 06 35 I don't think, to the extent you're talking about flash
10 06 38 signals, you resolve your claim dispute. So I don't think
10 06 48 that I'm going to be giving your proposed construction.
10 06 53 That's not to say there might not be some
10 06 55 dispute buried in there, but I don't think your construction
10 06 58 is identifying what the dispute is.
10 07 00 MR. BLUESTONE: Your Honor, if it goes the way
10 07 03 of you want to adopt plain meaning for ind cator set to
10 07 07 indicate, et cetera, we would still venture that even if you
10 07 10 want to adopt the plain meaning, there is a claim
10 07 13 construction issue via this claim 6, even though t's not
10 07 16 asserted, as to whether or not they can do -- as I think
10 07 18 they said, that they can argue that a mere flash signal is a
10 07 22 sufficient subst tute for indicator. That's a claim
10 07 26 construction dispute.
10 07 26 THE COURT: Well, no, saying -- well, maybe it
10 07 29 is, but I don't think I'm going to be resolving t now.
10 07 37 MR. BLUESTONE: All right, Your Honor. And then

10 07 41 Slide 34 real quick.
10 07 42 There was some discussion of the language of
10 07 47 configure -- of what the language says with configured to.
10 07 49 We would just offer this, and this is in our brief as well,
10 07 52 that set up to perform the specified funct on during
10 07 55 operation, and to the extent you need a construction for
10 07 58 what that is as opposed to capable of is acceptable to us.
10 08 02 THE COURT: Yeah. I wasn't going to start just
10 08 05 construing things that nobody's actually arguing about.
10 08 09 MR. BLUESTONE: Fair enough, Your Honor.
10 08 11 THE COURT: I mean, you know, you're throwing
10 08 13 around lots of things, means plus function, which I didn't
10 08 17 see in the briefing, and so I'm not likely to be just going
10 08 25 off on a lark of my own here.
10 08 29 MR. BLUESTONE: Fair enough, Your Honor. And I
10 08 30 think the point we were trying to make, making now and in
10 08 33 the brief is that you can't have a pure functional
10 08 35 limitation that isn't tied to some structure. And if you
10 08 38 look at claim 1, the ind cator set to ind cate is not
10 08 43 claimed as part of the storage locations.
10 08 46 So we're trying to say, Your Honor, the issue
10 08 48 here is: What is the structure of the indicator? We don't
10 08 53 know by the claim out of context.
10 08 56 THE COURT: Okay.
10 08 57 MR. BLUESTONE: We haven't really gone through

10 08 59 calculated differently to an extent.
10 09 01 THE COURT: Yeah. Well, I'm assuming -- let me
10 09 07 check here.
10 09 09 MR. BLUESTONE: And I can keep it very brief
10 09 11 because we really talked about the context at length to
10 09 14 this.
10 09 14 THE COURT: Wait a second. I've got this one
10 09 17 here.
10 09 18 MR. BLUESTONE: Yes, Your Honor.
10 09 37 THE COURT: I'm sorry. The calculating, wh ch
10 09 38 one is that?
10 09 38 MR. BLUESTONE: So that's related with
10 09 41 associated with.
10 09 41 THE COURT: Oh, right, right. I see it now.
10 09 43 Yes.
10 09 44 MR. BLUESTONE: So our -- again, you've indulged
10 09 47 us grac ously with a little extra time here, so I will keep
10 09 50 this brief. This is really analogous to a situation as in
10 09 53 that Impulse case that we cite where Judge Burke is saying
10 09 56 corresponding, how am I going to construe corresponding?
10 09 59 And the plaintiffs say, Look at all the general ways
10 10 01 corresponding means. And then he looks at the spec and
10 10 04 says, Well, corresponding in this instance is more
10 10 08 circumscribed.
10 10 09 That's Sl de 22, please. That's what the

53

highlighted language is talking about. The only time associated w th is used in the spec that's germane to the claims is here where it's talking about calculations. And I won't overindulge it, but that's kind of the synthesis of why we're saying associated w th can't mean a general, after-the-fact, vague meaning. We have to look at the particular context in wh ch t's used in the claim and the spec.

THE COURT: I guess, you know, I don't understand why actually here the plain language isn't just perfectly fine. If you have the exposure time, the gain are associated w th the first flash dev ce. You know, the fact that it is connected to the first flash device as opposed to, say, the second flash dev ce, you know, it's either going to belong to one or the other. And you know, if it's just an exposure time and a gain that has no connection to the first flash dev ce, well, then it's not going to be associated w th it. But if it has some connection to it, why isn't t associated with it?

MR. BLUESTONE: I guess the question is: What does some connect on mean? Like associated with, I'm associated w th my colleague, Mike Educate. We're associated.

THE COURT: Yeah.

MR. BLUESTONE: There's plenty of ways to say

54

that. What does it mean?

THE COURT: I think that -- I don't know. It seems to me, in context, I would think it would be pretty clear whether an exposure time and gain was associated with the first flash dev ce or not.

MR. BLUESTONE: Your Honor, I mean --

THE COURT: I mean, give me an example where I'd say, gee, I can't tell.

MR. BLUESTONE: I think if they try to argue that simply because different exposure time and gain values were used after a different flash device was used, they're going to want to argue to the jury that means it's associated. Just as a consequence that the numbers are different, stored in the register when you use Xenon or flash, that satisfies the claim.

And I don't think that's right. It's not just that something different happens. They're associated. There's an active funct on that is performed in the apparatus that t's configured to.

Again, I'm going to get jumped on this. We're not saying it's a method claim. We are saying, though, t is a -- if you have an operation, the operat on has to be configured to perform these acts.

So if they're going to say that by virtue is I could look at this and see that I got different values,

55

boom, it's been associated w th, that's overreaching and way broad beyond the scope. Candidly, that's our concern, Your Honor.

THE COURT: Well, so, you know, I mean, a lot of the things that perhaps both sides, but mostly your side are raising in this brief are, you know, these tricky people on the other s de, they're going to argue this. They're going to argue that. We have to rope them in.

I don't really think that, generally speaking, that's the point of claim construct on. You know, claim construction, part cularly when you do it early in a case like this, is it's a kind of abstract thing. What do the claims mean?

And you know, arguments that stretch the claims beyond what there is actually there, you know, that's a good thing to deal with at summary judgment when there's a connect on between the claims and what people are arguing. But right now, you know, I've just got your essentially parade of horribles about what these people are likely to be doing down the road and trying to do claim construct on to guard against the most horrible of the parade. It doesn't strike me as what I'm supposed to be doing here.

MR. BLUESTONE: I appreciate that, Your Honor, and I think part of that parade was identified at the onset of the case in our motion to dismiss, and some of these

56

issues have been flagged. And we do know enough to bring it to your attent on the issues that we're conf dent are coming up. Like flash signal, not to deviate from this point, is something we know is in dispute. That is actively established right now in dispute.

Associated w th, I would want to know what they're going to argue. We're saying, well, someone could have this situat on. I would like to know their position on what the boundaries of associated w th are.

Take my hypothetical. Are they saying associated with can encompass simply that what's stored in those registers, the exposure time and gain happen to be different? Just they happen to be different, that's enough. I would say that that's not consistent with the scope of the claim. It has to cause a difference based on that, based on that ind cator set, but I fully appreciate your point.

THE COURT: But you would agree that on that particular thing, you are not going with what the plain and ordinary meaning is. It's not like you have an argument on what the plain and ordinary meaning is. You want me to change it around quite a bit to get your preferred construction here.

MR. BLUESTONE: Yes, Your Honor. Our belief in reading the spec is that the proper construction is that they're calculated differently based on which flash device

10 15 42 is indicated as present. The secondary position, which I
10 15 45 think came up, to some degree, in the briefing, is
10 15 47 correlated. We don't think that's a hundred percent right
10 15 50 with t, but at least correlated implies some connection
10 15 53 that you can look at within the device. I think they
10 15 55 mentioned it.
10 15 56 We said that can be one meaning. It's certainly
10 15 58 better than associated w th. We don't think it's a hundred
10 16 00 percent there, but we do take issue w th associated w th as
10 16 03 being understandable in the scope. We don't think t is.
10 16 07 THE COURT: Okay.
10 16 08 MR. BLUESTONE: Thank you, Your Honor.
10 16 10 THE COURT: Anything more from your s de? His
10 16 14 side?
10 16 16 MR. VOWELL: Your Honor, just briefly on this,
10 16 21 on the phrase associated with. As Your Honor's recognized,
10 16 27 the plain and ordinary meaning of that is not limited to
10 16 29 calculated differently. That comes directly from a
10 16 33 statement in Column 5 of the patent wh ch then after talks
10 16 37 about the parameters being calculated differently. It says
10 16 41 that, Accordingly, the parameters are associated with.
10 16 44 But that's just -- the end result is that they
10 16 47 are associated w th. It's not how. The claim is not
10 16 51 concerned with how the exposure time and gain are
10 16 54 calculated. And, in fact, the Defendants even mention that

10 16 57 well, in other places in the specificat on, it says they're
10 17 00 calculated differently using different formulas. And
10 17 03 certainly that has nothing to do with the plain and ordinary
10 17 05 meaning of the word associated w th.
10 17 06 And so we would certainly defer to Your Honor,
10 17 09 but respectfully suggest this should be just given its plain
10 17 13 and ordinary meaning.
10 17 13 THE COURT: All right. I have a question: When
10 17 17 does this patent expire?
10 17 19 MR. VOWELL: Your Honor, forgive me. I'm sort
10 17 25 of looking at that on the spot. So t was filed in March of
10 17 29 2004, and so 20 years from that date, 2024.
10 17 34 THE COURT: Oh, okay. I couldn't remember
10 17 36 when. At some point --
10 17 39 MR. VOWELL: Your Honor, sorry. Let me correct
10 17 40 that. There is, also, under 35 USC Section 154(b) a
10 17 47 significant extension of 883 days. So more than two years
10 17 51 is added to the life of that, so that would be 2026 or 2027.
10 17 55 THE COURT: All right. Okay. Let me just take
10 18 02 a recess for a minute, and I'll be back in five minutes.
10 18 07 DEPUTY CLERK: All rise.
10 18 08 (Recess was taken.)
10 37 12 DEPUTY CLERK: All rise.
10 37 13 THE COURT: All right. Be seated for a minute.
10 37 17 So Mr. Bluestone, on the term an indicator set

10 37 25 to indicate whether the first flash device or second flash
10 37 30 device is present, and I think recognizing that your view is
10 37 41 that this is not the same thing as an indicator set or an
10 37 46 indicator configured to indicate whether a first flash or
10 37 50 second flash device is present, what would you say t does
10 37 56 mean?
10 37 58 MR. BLUESTONE: Thank you, Your Honor. The
10 38 01 indicator set to indicate, because t is a stored value,
10 38 04 means that value is set. The key language -- Slide 13,
10 38 08 please. The key language here is ind cator set.
10 38 12 THE COURT: Right, right. That's what I'm
10 38 14 trying to get at is what you think set means.
10 38 17 MR. BLUESTONE: So to be kind of a very general
10 38 21 metaphor would be, t has one, it has two. There's an
10 38 25 actual value ascribed that correlates to the presence of a
10 38 30 first or second flash device. It's not some structure that
10 38 33 could have a one or two. There is a one or there is a two.
10 38 37 THE COURT: So basically, at some point when the
10 38 52 camera is actually in use, it would have that value?
10 39 00 MR. BLUESTONE: Yes, that's correct, Your Honor.
10 39 02 We're not saying the camera necessarily has to be in use,
10 39 05 but that value needs to be set.
10 39 08 THE COURT: But if the camera is not in use, how
10 39 14 could it make any sense that the value is set?
10 39 17 MR. BLUESTONE: This goes to their point when

10 39 21 they were saying, well, could there be a default value? In
10 39 24 theory, you could have something that's indicating it
10 39 26 because it knows that t comes with an LED flash, for
10 39 31 example, and that's the default value.
10 39 32 The question that comes when you turn on the
10 39 34 device and it goes to flash mode, will it do those
10 39 37 calculations differently based on LED --
10 39 41 THE COURT: So if the indicator in the module
10 39 51 says -- is wr tten to say the default is it's a Xenon flash,
10 39 59 first flash dev ce, but if X, Y, Z happens then, you know,
10 40 07 feel free to do something else, then you'd say t was set to
10 40 11 indicate the first flash dev ce is present?
10 40 15 MR. BLUESTONE: Yes. Yes. So to elaborate on
10 40 18 your example, if I may briefly, Your Honor. Let's say
10 40 20 it's -- this device comes with an LED light and it's preset
10 40 24 to say I know t's an LED. And the functionality also says,
10 40 28 well, if you sw tch t out and use t with a Xenon flash,
10 40 31 then do these calculations differently. You've met that
10 40 34 indicator set. It also can be changed to be other things,
10 40 37 but it has to have the ability to know wh ch one it is and
10 40 40 be set.
10 40 41 Is that helpful, Your Honor? Probably an unfair
10 40 47 question to ask at any time.
10 40 48 THE COURT: I guess we will find out. I forget,
10 40 56 Mr. Vowell or Mr. Gunter, whichever one was doing this.

61

10 40 58 MR. BLUESTONE: Thank you, Your Honor.
10 40 59 THE COURT: You know, one of the things that's a
10 41 03 problem for you in terms of your proposal here is I think
10 41 11 you want to quote the plain and ordinary meaning of an
10 41 17 indicator set to indicate whether a first flash device or
10 41 20 second flash device is present to be an indicator configured
10 41 24 to indicate whether a first flash dev ce or second flash
10 41 27 device is present.
10 41 29 Is that right?
10 41 31 MR. GUNTER: I think configured to captures that
10 41 34 dea that would cover, you know, in our example the default
10 41 38 values, because it's really focusing on the capability of
10 41 41 the indicator itself and not the actual attachment of a
10 41 43 flash dev ce.
10 41 44 THE COURT: Okay. And so you'll agree that set,
10 41 49 the normal plain and ordinary meaning of set is not
10 41 52 configured to; right?
10 41 54 MR. GUNTER: I think the way that the claim is
10 41 56 wr tten currently, as the way t's written, it is more akin
10 42 02 to capable of, or configure to or operable to. It's an
10 42 05 indicator set to indicate.
10 42 07 THE COURT: So let's assume for the sake of
10 42 10 argument that I disagree w th you on that, what
10 42 14 Mr. Bluestone was saying, which maybe has something to do
10 42 18 with your default values, is if the code that's the

62

10 42 27 indicator says the first flash device is present, unless
10 42 41 something happens or, you know, unless different information
10 42 45 is received, that would be one possible way -- that would
10 42 51 meet the requirement that the ind cator set to indicate
10 42 54 whether first flash dev ce or second flash device is
10 42 57 present, it would meet that; right?
10 42 59 MR. GUNTER: If I follow you right, I believe
10 43 00 that's correct because t's focusing on the capability of
10 43 03 the indicator and less about the actual attachment of a
10 43 06 flash dev ce.
10 43 07 THE COURT: Right. So if I sa d an indicator
10 43 22 set to indicate whether a first flash device or a second
10 43 26 flash dev ce is present, and I said, well, the plain meaning
10 43 30 of that is the indicator ind cates whether a first flash
10 43 46 device or a second flash dev ce is present, is that right?
10 43 56 MR. GUNTER: I think our preference is the plain
10 44 02 and ordinary meaning because we think that captures the
10 44 03 capability. I feel like whenever we give active more
10 44 08 verb-like language to this, that goes to an argument that
10 44 11 t's really transforming this into more of a method, which
10 44 14 we have method claims in this patent. But this is the
10 44 16 apparatus talking about the capability, and that's why we
10 44 20 think ind cator is set to indicate, just the plain language
10 44 23 of that goes to --
10 44 24 THE COURT: You know, it would be one thing if

63

10 44 26 you argued that and you didn't have all this configured to
10 44 32 language elsewhere. You know, it's kind of hard to argue
10 44 37 that the set to indicate -- you know, set means the same
10 44 42 thing as configured to when there's plenty of evidence
10 44 48 that -- you know, it just goes against the idea of you don't
10 44 53 use two different things to say the same thing.
10 44 56 MR. GUNTER: And if that were a cho ce, as
10 44 58 what's giving Your Honor the most concern, perhaps we do a
10 45 02 different word, operable to rather than configured to.
10 45 06 THE COURT: Yeah, but I mean, in some ways, you
10 45 11 know, this is not as important, but there are a whole bunch
10 45 17 of different, you know, operable to, capable to, configured
10 45 20 to. And maybe set to is kind of, you know, somewhere in
10 45 27 that spectrum of things that are sort of potential more than
10 45 38 actual.
10 45 46 All right. Do you have anything further to say
10 45 48 about that?
10 45 49 MR. GUNTER: Not at this time, Your Honor.
10 45 51 THE COURT: Okay. All right. Well, I'm going
10 45 55 to take this under advisement. You know, I do think a lot
10 46 18 of what the Defendant is doing here is just trying to
10 46 22 develop infringement and non-infringement arguments for
10 46 28 things that are relatively close to being plain and ordinary
10 46 33 meaning, if they're not, in fact, plain and ordinary
10 46 35 meaning.

64

10 46 36 But I want to be able to articulate it, at least
10 46 41 a little b t, as to why I think this is the case. And I
10 46 51 also do want to think about the indicator set to indicate.
10 47 01 Is either side familiar at all with using set to
10 47 16 as opposed to operable to, configured to, capable of? And
10 47 23 is set to something that appears elsewhere or is this
10 47 26 inventor sort of on a frolic of their own?
10 47 32 MR. BLUESTONE: If I may, Your Honor.
10 47 33 THE COURT: Yeah. You don't have to come
10 47 35 forward, just tell me what you want to tell me.
10 47 37 MR. BLUESTONE: This is addressed in Page 22 of
10 47 40 the joint brief, the issue you're addressing right now. Why
10 47 43 is the language set to used? I don't have any case
10 47 46 c tations specifically to the use of set, but the answer,
10 47 49 the reason why it used set is because there are conditional
10 47 52 limitat ons that have to be present. Otherwise, those
10 47 55 cond tional wherein clauses are not limited.
10 47 57 THE COURT: All right. Well, so yeah, I don't
10 48 08 see anything on Page 22 that seems to be -- there's an
10 48 12 argument about set to indicate, but I don't see anything
10 48 14 about the cases, two cases you cite that suggest that they
10 48 21 are actually addressed, set to as opposed to some other
10 48 24 language.
10 48 25 MR. BLUESTONE: You're correct, Your Honor.
10 48 26 Those cases do not recite set to. They're just explaining

why this claim is using set to to make sure that the wherein clauses two and three are, in fact, limiting.

THE COURT: Okay. All right.

Well, thank you for your time this morning. I will take this under advisement.

Actually, what claims are asserted at this point?

MR. GUNTER: Claim 1, Your Honor --

THE COURT: That's it?

MR. GUNTER: -- at this point.

THE COURT: Okay. All right. We'll be in recess.

DEPUTY CLERK: All rise.

(Court was recessed at 10:50 a.m.)

I hereby certify the foregoing is a true and accurate transcript from my stenographic notes in the proceeding.

/s/ Heather M. Triozzi

Certified Merit and Real-Time Reporter

U.S. District Court

EXHIBIT D

“Indicator Set to Indicate” Contentions Demonstrative

June 15, 2021: Initial Infringement Contentions (Ex. A at 9)

Lists table of possible register values.

March 22, 2022: Supplemental Infringement Contentions (Ex. A at 19)

On November 9, 2021, Court ruled that "'set to indicate' is not 'configured to indicate' or 'capable of indicating.'" (D.I. 60 at 4.) "'Set to indicate' requires something more than mere future capability; this term relates to the present condition of the indicator." (*Id.*)

IIS does not address the Court's construction.

No analysis of anything set in accused product.

June 15, 2021: Initial Infringement Contentions (Ex. A at 9)

Lists table of possible register values.

March 22, 2022: Supplemental Infringement Contentions (Ex. N at 10)

On November 9, 2021, Court ruled that "'set to indicate' is not 'configured to indicate' or 'capable of indicating.'" (D.I. 60 at 4.) "'Set to indicate' requires something more than mere future capability; this term relates to the present condition of the indicator." (*Id.*)

IIS does not address the Court's construction.

No analysis of anything set in accused product.

EXHIBIT E

“In Response To” Contentions Demonstrative

June 15, 2021: Initial Infringement Contentions (Ex. A at 19)

No theory disclosing what occurs is is “in response to” an indicator indicating the presence of a first or second flash device.

No theory disclosing how exposure time or gain are associated with a LED (or Xenon)

Nothing mentioning “gain”

March 22, 2022: Supplemental Infringement Contentions (Ex. A at 19)

No further analsyis.

June 15, 2021: Initial Infringement Contentions (Ex. A at 19)

No theory disclosing what occurs is is "in response to" an indicator indicating the presence of a first or second flash device.

No theory disclosing how exposure time or gain are associated with a LED (or Xenon)

Nothing mentioning "gain"

March 22, 2022: Supplemental Infringement Contentions (Ex. N at 20)

No further analysis.

EXHIBIT F

IIS March 22, 2022 Infringement Contentions Exhibit N

Plaintiff's Claim Chart
Exhibit N

U.S. Pat. No. 7,333,145
"Camera Module"

Defendant:
Omnivision ("Defendant" or "Omnivision")

Accused Products:
Omnivision OV2736 Image Sensor
Representative of all products listed on slide 2

Representative Product

Accused Product

This claim chart specifically addresses infringement of claim 1 ("Asserted Claim" of U.S. Patent No. 7,333,145 ("the '145 Patent") by Omnivision's OV2736 model of image sensors.

Omnivision's OV2736 sensor (collectively referred to herein as the "Accused Product") are representative of Omnivision's infringement of the Asserted Claim. This chart specifically addresses the functionality of the listed product. However, these infringement contentions are illustrative rather than exhaustive. They are representative of, and apply to, all products using this sensor and all products comprising similar features, functions, and/or characteristics to those shown and described herein. This chart is being provided as an Initial Infringement Contention pursuant to the schedule in this case, and Plaintiff specifically reserves all rights to amend or supplement this claim chart with evidence obtained during the course of discovery. Plaintiff expressly reserves all rights to assert additional claims.

This claim chart is representative of the architecture and functionality of all of the accused products which are listed on the next slide.

1

List of Accused Products

OV02B	OV5648	OV21840
OV13A10	OV5640	OV21850
OV13A20	OV5642	OV21880
OV13A30	OV5645	OV23850
OV13A1Q	OV5670	OV26850
OV16B10	OV5690	OV13551
OV16E10	OV5693	OV16850
OV16A10	OV8858	OV48B10
OV24A10	OV8358	OS08A20
OV24A1B	OV8865	OS08A1S
OV24A1Q	OV8365	OS05A20
OV24A	OV12870	OV12C10
OV24B10	OV12890	OV2241
OV2281	OV13351	OV2740
OV2655	OV13554	OV12D10
OV2732	OV 13850	OV48C10
OV2736	OV13853	OV12D10
OV3640	OV13855	OV64A10
OV4686	OV13860	OVFUJI
OV4688	OV13870	OV32B10
OV4689	OV16860	OV4685
OV4690	OV16880	OV50C10
OV04880	OV16885	OV48E10
OV5148	OV20880	OV32A10
		OH08A10

2

‘145 Patent
Claim: 1

[Preamble] A camera module comprising:

[Element A] an image sensor array;

[Element B] a gain amplifier;

[Element C] an indicator set to indicate whether a first flash device or a second flash device is present; and

[Element D] a plurality of storage locations;

[Element E(i)] wherein the plurality of storage locations is configured to store an exposure time and a gain,

[Element E(ii)] wherein the exposure time and the gain are associated with the second flash device in response to the indicator indicating the presence of the second flash device,

[Element E(iii)] wherein the exposure time and the gain are associated with the second flash device in response to the indicator indicating the presence of the second flash device,

[Element E(iv)] wherein the image sensor array is configured to capture an image using the exposure time, and wherein the gain amplifier is configured to perform processing on the image using the gain.

3

'145 Patent	
Claim: 1 –Preamble[1]	
A camera module comprising:	[redacted]
• The Accused Product comprises a camera module. • Omnivision's OV2736 is a camera module facilitating the capturing and processing of images. .	
4	

[1]By charting the preamble, we do not concede that the preamble is a limitation and reserve the right to contend that the preamble is not a limitation of the claim.

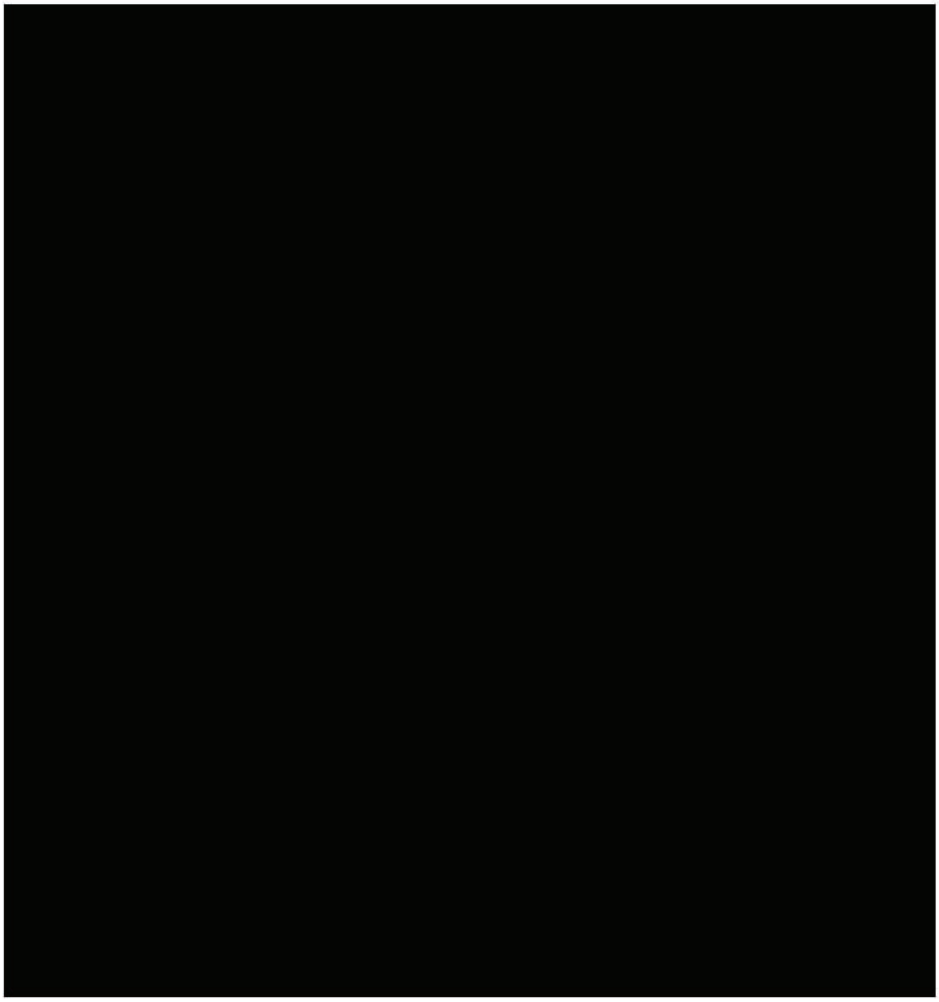
We have relied upon publicly available information, and the limited information provided to date by Omnivision, for support for the claim elements. Some information and materials that may be necessary to conclusively establish Infringement are not publicly available. While this chart cites to documentation for only the Representative Products, it is intended to be indicative of how all Accused Products infringe the '145 Patent.

'145 Patent
Claim: 1 –Preamble[1]
A camera module comprising:
• The Accused Product comprises a camera module. • Omnivision's OV2736 is a camera module facilitating the capturing and processing of images.
5

'145 Patent
Claim: 1 – Element (A)
an image sensor array;
• The Accused Product includes an image sensor array, highlighted in green to the right. • The image sensor array captures images for processing by the camera module.
6

Claim 1, Element A - The Accused Products literally infringe this claim element. Alternatively, the limitations of this claim element are present under the Doctrine of Equivalents because to the extent there are any differences between the Accused Product and this claim element, such differences are insubstantial. Further, equivalency may be shown by the fact that the Accused Product performs substantially the same function in substantially the same way to achieve substantially the same result as recited in this claim element.

'145 Patent
Claim: 1 – Element (A)
an image sensor array;
• The Accused Product includes an image sensor array. • The OV2736 sensor's image array is shown to the right.
7



'145 Patent
Claim: 1 – Element (B)
a gain amplifier;
• The Accused Product includes a gain amplifier, shown in yellow to the right. • The OV2736's gain amplifier receives input from the image input from the image array and the gain control, which it uses to modify the image data with the corresponding gain to prepare it for output as a 12-bit image data. • Exposure time and gain may be set automatically and manually.
8

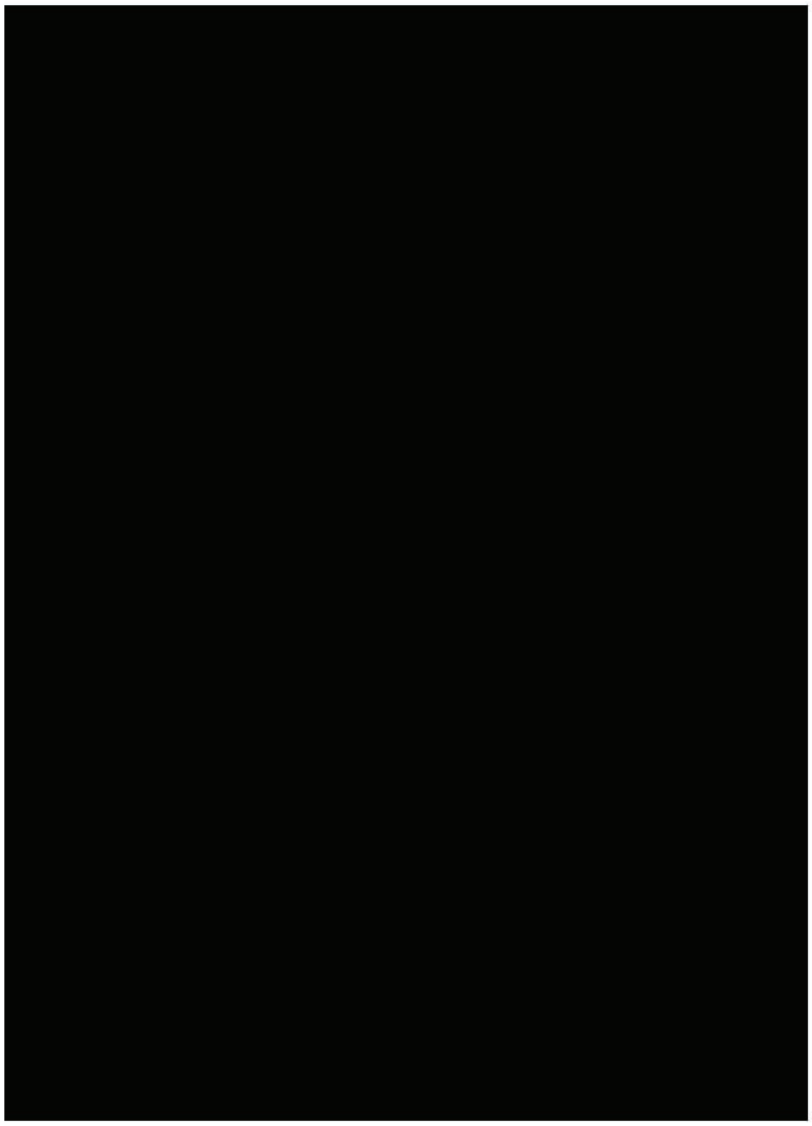
Claim 1, Element (B) - The Accused Products literally infringe this claim element. Alternatively, the limitations of this claim element are present under the Doctrine of Equivalents because to the extent there are any differences between the Accused Product and this claim element, such differences are insubstantial. Further, equivalency may be shown by the fact that the Accused Product performs substantially the same function in substantially the same way to achieve substantially the same result as recited in this claim element.

'145 Patent
Claim: 1 – Element (C)
an indicator set to indicate whether a first flash device or a second flash device is present; and
• The Accused Products include an indicator that is set to indicate whether a first type of flash device or a second type of flash device is present. • The OV2736's architecture includes a timing generator and system control logic and strobe indicator, highlighted in red to the right. • The strobe flash control signal is described as an indicator that is programmable and supports both LED and Xenon flash modes (the first and second types of flash devices.)
9

Claim 1, Element (C) - The Accused Products literally infringe this claim element. Alternatively, the limitations of this claim element are present under the Doctrine of Equivalents because to the extent there are any differences between the Accused Product and this claim element, such differences are insubstantial. Further, equivalency may be shown by the fact that the Accused Product performs substantially the same function in substantially the same way to achieve substantially the same result as recited in this claim element.

'145 Patent
Claim: 1 – Element (C)
an indicator set to indicate whether a first flash device or a second flash device is present; and
• The strobe indicator in the OV2736 supports two types of flash device: LED and Xenon. • This indicator is set to indicate which of the two types of flash devices is connected to the camera module.
10

'145 Patent
Claim: 1 – Element (C)
an indicator set to indicate whether a first flash device or a second flash device is present; and
• The timing control, and by extension the exposure time and gain, is affected by the status of the strobe indicator indicating the presence of a first or second type of flash device.
11



'145 Patent
Claim: 1 – Element (D)
a plurality of storage locations;
• The Accused Product includes a plurality of storage locations. • The control register bank shown in blue to the right is one example of a plurality of storage locations. • The control register bank contains multiple sub-registers which store data and information relevant to image taking and processing.
12

Claim 1, Element (D) - The Accused Products literally infringe this claim element. Alternatively, the limitations of this claim element are present under the Doctrine of Equivalents because to the extent there are any differences between the Accused Product and this claim element, such differences are insubstantial. Further, equivalency may be shown by the fact that the Accused Product performs substantially the same function in substantially the same way to achieve substantially the same result as recited in this claim element.

'145 Patent
Claim: 1 – Element (D)
a plurality of storage locations;
• The system control registers, which can be found in the control register bank, contain multiple storage locations, such as the locations shown to the right. • By way of example, these three registers contain information which configure OV2736's settings related to exposure time.
13

'145 Patent
Claim: 1 – Element (E(i))
wherein the plurality of storage locations is configured to store an exposure time and a gain,
• The Accused Product's plurality of storage locations are configured to store an exposure time and a gain. • The storage registers described in Table 4-9 are exemplary of the registers used to store exposure time and gain.
14

Claim 1, Element (E(i)) - The Accused Products literally infringe this claim element. Alternatively, the limitations of this claim element are present under the Doctrine of Equivalents because to the extent there are any differences between the Accused Product and this claim element, such differences are insubstantial. Further, equivalency may be shown by the fact that the Accused Product performs substantially the same function in substantially the same way to achieve substantially the same result as recited in this claim element.

'145 Patent
Claim: 1 – Element (E(i))
wherein the plurality of storage locations is configured to store an exposure time and a gain,
• The Accused Product's plurality of storage locations are configured to store an exposure time and a gain. • The storage registers described in Table 4-9 are exemplary of the registers used to store exposure time and gain.
15

'145 Patent
Claim: 1 – Element (E(ii))
wherein the exposure time and the gain are associated with the first flash device in response to the indicator indicating the presence of the first flash device,
• The exposure time and gain are associated with a first type of flash device, such as LED flash. • The exposure time and gain are associated with the first flash device in response to the timing generator and system control logic, including through the use of the strobe indicator specifying the presence of the first flash device.
16

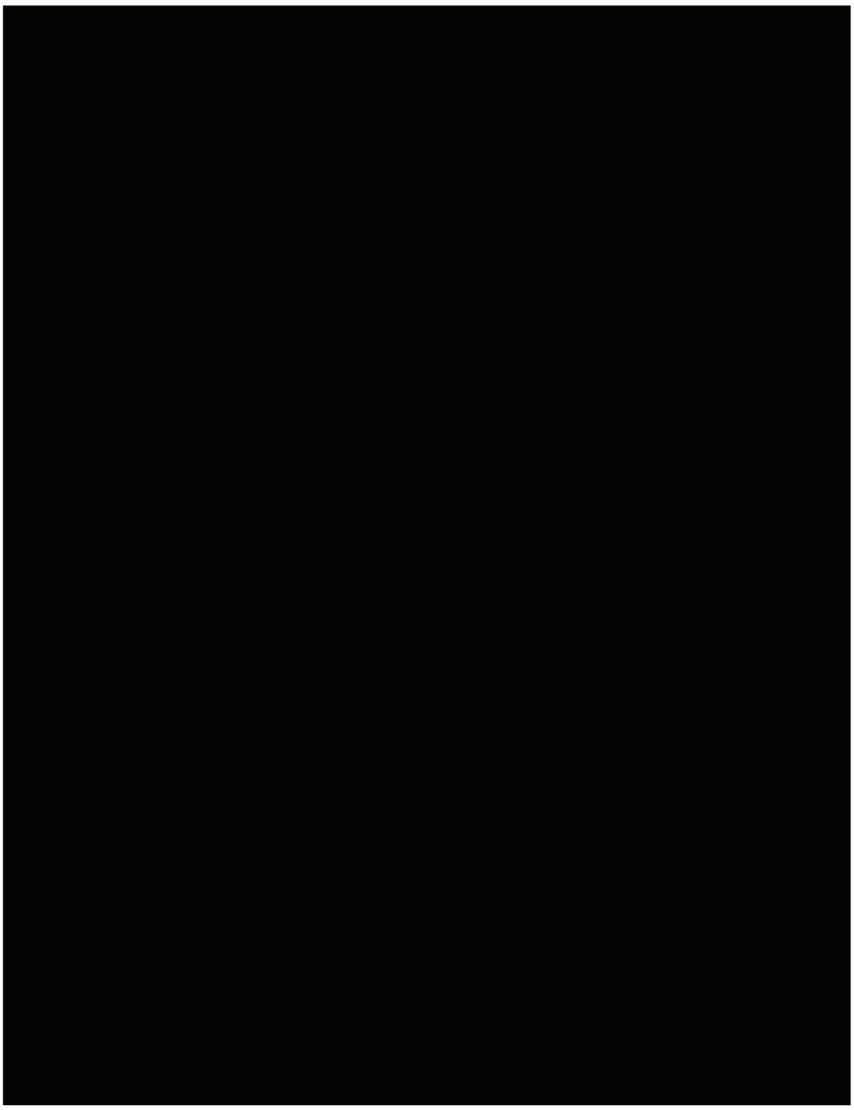
Claim 1, Element (E(ii)) - The Accused Products literally infringe this claim element. Alternatively, the limitations of this claim element are present under the Doctrine of Equivalents because to the extent there are any differences between the Accused Product and this claim element, such differences are insubstantial. Further, equivalency may be shown by the fact that the Accused Product performs substantially the same function in substantially the same way to achieve substantially the same result as recited in this claim element.

'145 Patent
Claim: 1 – Element (E(ii))
wherein the exposure time and the gain are associated with the first flash device in response to the indicator indicating the presence of the first flash device,
• All required image processing functions are programmable through the SCCB interface. • The Accused Product's datasheet confirms there is a programmable indicator that specifies which type of flash device is present. • The camera module software makes the determination of what particular data to store in the memory registers for exposure time and gain.
17

'145 Patent
Claim: 1 – Element (E(ii))
wherein the exposure time and the gain are associated with the first flash device in response to the indicator indicating the presence of the first flash device,
• The exposure time may be controlled by adjusting the time interval between precharging and sampling. • After the data of the pixels in the row has been sampled, it is processed through analog circuitry to correct the offset and multiply the data with the corresponding gain. • The exposure time and gain are associated with each other.
18

'145 Patent
Claim: 1 – Element (E(ii))
wherein the exposure time and the gain are associated with the first flash device in response to the indicator indicating the presence of the first flash device,
• The flash module may be triggered by the strobe signal, and the corresponding exposure time and gain will be tailored to the type of flash device that is present (e.g., LED or Xenon shown on this slide and the next). • The sensor will trigger the strobe to indicate the start of exposure time for the type of flash device that is present (such as Xenon). • In response to at least the strobe signal and corresponding control logic programmed for a Xenon flash, the exposure time and corresponding gain are associated with a Xenon device.
19

'145 Patent
Claim: 1 – Element (E(ii))
wherein the exposure time and the gain are associated with the first flash device in response to the indicator indicating the presence of the first flash device,
• The flash module may be triggered by the strobe signal, and the corresponding exposure time and gain will be tailored to the type of flash device that is present. • The sensor will trigger the strobe to indicate the start of exposure time for the type of flash device that is present (such as LED). • In response to at least the strobe signal and corresponding control logic programmed for an LED flash, the exposure time and corresponding gain are associated with an LED device.
20



'145 Patent
Claim: 1 – Element (E(iii))
wherein the exposure time and the gain are associated with the second flash device in response to the indicator indicating the presence of the second flash device,
• The exposure time and gain are associated with a second type of flash device, such as a xenon flash. • The exposure time and gain are associated with the second flash device in response to the timing generator and system control logic, including through the use of the strobe indicator, specifying the presence of the second flash device.
21

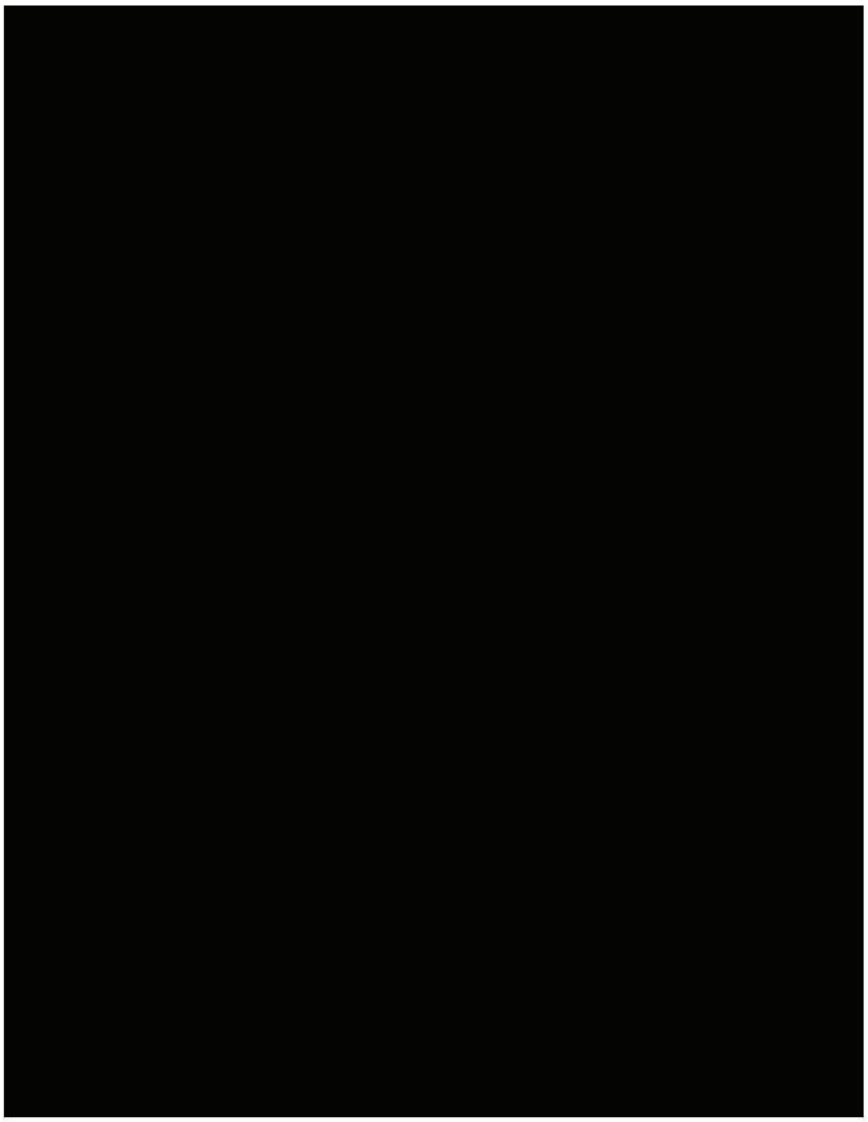
Claim 1, Element (E(iii)) - The Accused Products literally infringe this claim element. Alternatively, the limitations of this claim element are present under the Doctrine of Equivalents because to the extent there are any differences between the Accused Product and this claim element, such differences are insubstantial. Further, equivalency may be shown by the fact that the Accused Product performs substantially the same function in substantially the same way to achieve substantially the same result as recited in this claim element.

'145 Patent
Claim: 1 – Element (E(iii))
wherein the exposure time and the gain are associated with the second flash device in response to the indicator indicating the presence of the second flash device,
• All required image processing functions are programmable through the SCCB interface. • The Accused Product's datasheet confirms there is a programmable indicator that specifies which type of flash device is present. • The camera module software makes the determination of what particular data to store in the memory registers for exposure time and gain.
22

'145 Patent
Claim: 1 – Element (E(iii))
wherein the exposure time and the gain are associated with the second flash device,
• The exposure time may be controlled by adjusting the time interval between precharging and sampling. • After the data of the pixels in the row has been sampled, it is processed through analog circuitry to correct the offset and multiply the data with the corresponding gain. • The exposure time and gain are associated with each other.
23

'145 Patent
Claim: 1 – Element (E(iii))
wherein the exposure time and the gain are associated with the second flash device in response to the indicator indicating the presence of the second flash device,
• The flash module may be triggered by the strobe signal, and the corresponding exposure time and gain will be tailored to the type of flash that is present (e.g., LED or Xenon shown on this slide and the next). • The sensor will trigger the strobe to indicate the start of exposure time for the type of flash device that is present (such as Xenon). • In response to at least the strobe signal and corresponding control logic programmed for a Xenon flash, the exposure time and corresponding gain are associated with a Xenon flash device.
24

'145 Patent
Claim: 1 – Element (E(iii))
wherein the exposure time and the gain are associated with the second flash device in response to the indicator indicating the presence of the second flash device,
• The flash module may be triggered by the strobe signal, and the corresponding exposure time and gain will be tailored to the type of flash that is present. • The sensor will trigger the strobe to indicate the start of exposure time for the type of flash device that is present (such as LED). • In response to at least the strobe signal and corresponding control logic programmed for an LED flash, the exposure time and corresponding gain are associated with an LED flash device.
25



'145 Patent
Claim: 1 – Element (E(iv))
wherein the image sensor array is configured to capture an image using the exposure time, and wherein the gain amplifier is configured to perform processing on the image using the gain.
• The Accused Product's image sensor array is configured to capture an image using the exposure time. • The OV2736's gain amplifier is configured to perform processing on the image using the gain control.
26

Claim 1, Element (E(iv)) - The Accused Products literally infringe this claim element. Alternatively, the limitations of this claim element are present under the Doctrine of Equivalents because to the extent there are any differences between the Accused Product and this claim element, such differences are insubstantial. Further, equivalency may be shown by the fact that the Accused Product performs substantially the same function in substantially the same way to achieve substantially the same result as recited in this claim element.

'145 Patent
Claim: 1 – Element (E(iv))
wherein the image sensor array is configured to capture an image using the exposure time, and wherein the gain amplifier is configured to perform processing on the image using the gain.
• Among other capabilities, the OV2736's image sensor array can control exposure time through adjusting the time interval between precharging and sampling the rows of its arrays. • It can also process the image using gain and the gain amplifier, which the OV2736 users to manipulate and multiply gain for creation of a 12-bit image data.
27

EXHIBIT G

IIS Supplemental Responses to Second Set of Interrogatories

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ID IMAGE SENSING LLC, Plaintiff, v. OMNIVISION TECHNOLOGIES, INC., Defendant.	C.A. No. 20-136-RGA JURY TRIAL DEMANDED

PLAINTIFF ID IMAGE SENSING LLC'S SUPPLEMENTAL OBJECTIONS AND RESPONSES TO DEFENDANT'S SECOND SET OF INTERROGATORIES

Pursuant to Rules 33 and 26 of the Federal Rules of Civil Procedure, Plaintiff ID IMAGE SENSING LLC ("Plaintiff" or "IIS") hereby serves the following supplemental objections and responses to Defendant OMNIVISION TECHNOLOGIES, INC.'S ("Defendant" or "Omnivision") Second Set of Interrogatories IIS reserves the right to further amend and supplement its objections and responses pursuant to Fed. R. Civ. P. 26(e).

GENERAL OBJECTIONS

1. IIS objects to each instruction, definition, or interrogatory that seeks to impose obligations inconsistent with the Federal Rules of Civil Procedure or the Local Rules for the District of Delaware.

2. IIS objects to each instruction, definition, or interrogatory that seeks information in advance of the applicable deadlines provided by the Federal Rules of Civil Procedure or the Local Rules for the District of Delaware.

3. IIS objects to each instruction, definition, or interrogatory to the extent it calls for disclosure of information protected by the attorney-client privilege, the work product doctrine, or other

applicable privilege(s), exemption(s) from production, or is otherwise protected under the Federal Rules of Civil Procedure or other applicable rules.

4. IIS objects to each interrogatory to the extent that it is overly broad, unduly burdensome, and/or would require undue expense to answer.

5. IIS objects to each interrogatory to the extent that it seeks information not proportional to the needs of the case or is otherwise not relevant to a claim or defense of any party.

6. IIS objects to each interrogatory to the extent it calls for a legal conclusion and/or seeks expert testimony. Expert testimony will not be provided until the date set forth in the Court's Scheduling Order.

7. IIS objects to each interrogatory to the extent it is a premature contention interrogatory.

8. IIS objects to each interrogatory as uncertain, overbroad, and unduly burdensome to the extent it is not limited to a definite time period and accordingly is not limited to events and facts relevant to any party's claim or defense in the above-captioned action.

9. IIS objects to these Interrogatories to the extent they purport to be directed at any entity other than ID Image Sensing LLC.

10. IIS objects to these Interrogatories to the extent that they purport to require the disclosure of information that is not within IIS' possession, custody, or control.

11. IIS objects to these Interrogatories to the extent that they purport to require IIS to disclose information that IIS is required to maintain in confidence pursuant to an agreement or understanding with any third party. IIS will not disclose such information, except pursuant to an appropriate release from any such third party or an appropriate court order.

12. IIS objects to these Interrogatories to the extent they seek information not readily available to IIS or that would be no easier for IIS to derive or ascertain from documentary records than it would

be for IIS to do so itself. IIS will respond to such interrogatories to the extent and in the manner required by Rule 33(d) of the Federal Rules of Civil Procedure.

13. The following responses are based on information and documents available as of the date of this response. Discovery is continuing and the responses accordingly are subject to change. Further discovery, independent investigation, and analysis may supply additional facts and add meaning to known facts, all of which may lead to additions to, changes to, or variations from the information herein set forth. IIS reserves the right to change, amend, or supplement the responses herein as additional facts are ascertained. The responses contained herein are made in a good faith effort to comply with the provisions of Rule 33, but are in no way deemed to be to the prejudice ofIIS in relation to further discovery, investigation, and analysis.

14. The applicable foregoing General Objections are incorporated into each of the Specific Objections and responses that follow as if set forth fully therein. The stating of a specific objection or response shall not be construed as a waiver of these General Objections.

SPECIFIC OBJECTIONS AND RESPONSES TO INTERROGATORIES

INTERROGATORY NO. 6: For each Asserted Claim of the Asserted Patent, identify and describe in detail the conception and reduction to practice, actual and constructive, of the alleged invention covered by each Asserted Claim, including the facts and circumstances surrounding the conception and reduction to practice, the date of conception and the date of reduction to practice for that claim, the identity of all individuals who contributed toward or participated in any such conception or reduction to practice, and all documents by production number that you contend corroborate each such conception and reduction to practice, and all persons who you contend can corroborate each such conception and reduction to practice.

RESPONSE:

Subject to the General Objections, Plaintiff responds as follows:

Each of the claims of the Asserted Patent were constructively reduced to practice at least as early as March 5, 2004 when the application leading to the Asserted Patent was filed. Plaintiff is currently unaware of any additional facts supporting an earlier date of conception or reduction to practice. The named inventor, Dwight D. Poplin, conceived of and constructively reduced to practice the invention.

INTERROGATORY NO. 7: Identify and describe in detail the date of first sale or public disclosure of any commercial embodiment of the Asserted Patent.

RESPONSE:

Plaintiff objects to this interrogatory as overly broad and unduly burdensome to the extent that it seeks information in the possession of, known to, or otherwise equally available to the Defendant. Subject to the General Objections, Plaintiff responds as follows:

Plaintiff is currently unaware of the date of first sale or public disclosure of any commercial embodiment of the Asserted Patent other than when Omnivision first sold one of the Accused Products.

INTERROGATORY NO. 8: Describe in detail any investigation and evaluation, whether conducted by you or any other person, regarding the valuation, validity, patentability, enforceability, scope, and infringement of the Asserted Patent or Related Patents of which you are aware.

RESPONSE:

Plaintiff objects to this interrogatory vague and ambiguous as the Interrogatory as written contradicts itself. Subject to the foregoing objections, Plaintiff responds as follows:

Plaintiff interprets this interrogatory as requesting IIS' contention as to whether any of the references cited in Omnivision's Invalidity Contentions were not published, filed, or publicly available early enough to actually constitute prior art to the Asserted Patent. Based on the facts and information Plaintiff has at this time regarding conception and reduction to practice of the claims of the Asserted Patent, Plaintiff does not currently contest that the references cited in Omnivision's Invalidity Contentions are early enough to constitute prior art. However, Plaintiff contends that none of the references anticipate or render obvious the asserted claim of the Asserted Patent.

INTERROGATORY NO. 9 (ACTUALLY NOS. 9-16): To the extent that you contend that any prior art reference or prior art combination identified by Omnivision in its invalidity contentions fails to anticipate or render obvious the Asserted Claim, specifically identify each limitation of each Asserted Claim that you assert is not disclosed in each prior art reference or prior art combination and explain why Omnivision's identification of such a limitation as being disclosed in the reference(s) is erroneous.

RESPONSE:

Plaintiff objects to this Interrogatory as containing 8 discrete subparts corresponding to facts pertaining to each prior art reference and combination of prior art references charted in Omnivision's Invalidity Contentions. Each rests on independent factual contentions such that it is improper to include all within a single interrogatory. Consequently, Interrogatory No. 9 is actually 8 separate interrogatories that will each count toward Omnivision's limit in this litigation. Plaintiff

further objects to this interrogatory as prematurely seeking expert testimony and information that is properly the subject of IIS' rebuttal report on validity. IIS will comply with all applicable rules and orders entered by the Court, including any orders regarding the timing of expert reports. Subject to the foregoing objections, Plaintiff responds as follows:

Below is a chart listing the elements from claim 1 of the '145 patent that are not disclosed in the patents and patent applications asserted in the validity charts in Omnivision's Invalidity Contentions. Plaintiff contends that at least these claim elements are not disclosed in the cited references but reserves the right to supplement this response with additional information.

Patent / Application	Name	Claim Elements Not Disclosed
6,359,651	Yokonuma	"an indicator set to indicate whether a first flash device or a second flash device is present" "wherein the exposure time and the gain are associated with the first flash deice in response to the indicator indicating the presence of the first flash device" "wherein the exposure time and the gain are associated with the second flash deice in response to the indicator indicating the presence of the first flash device"
US 2003/0133021	Hamamura	"an indicator set to indicate whether a first flash device or a second flash device is present" "wherein the exposure time and the gain are associated with the first flash deice in response to the indicator indicating the presence of the first flash device" "wherein the exposure time and the gain are associated with the second flash deice in response to the indicator indicating the presence of the first flash device"
6,718,135	Kawasaki	"an image sensor array" "a gain amplifier" "wherein the image sensor array is configured to capture an

		image using the exposure time" "wherein the gain amplifier is configured to perform processing on the image using the gain"
7,522,210	Shimada	"an indicator set to indicate whether a first flash device or a second flash device is present" "wherein the exposure time and the gain are associated with the first flash deice in response to the indicator indicating the presence of the first flash device" "wherein the exposure time and the gain are associated with the second flash deice in response to the indicator indicating the presence of the first flash device"
5,610,654	Parulski	"an indicator set to indicate whether a first flash device or a second flash device is present" "wherein the exposure time and the gain are associated with the first flash deice in response to the indicator indicating the presence of the first flash device" "wherein the exposure time and the gain are associated with the second flash deice in response to the indicator indicating the presence of the first flash device"
5,559,552	Inuiya	"an indicator set to indicate whether a first flash device or a second flash device is present" "wherein the exposure time and the gain are associated with the first flash deice in response to the indicator indicating the presence of the first flash device" "wherein the exposure time and the gain are associated with the second flash deice in response to the indicator indicating the presence of the first flash device"
5,528,333	Lee	"an image sensor array" "a gain amplifier" "wherein the image sensor array is configured to capture an image using the exposure time" "wherein the gain amplifier is configured to perform

		processing on the image using the gain"

For the following combinations of references that Omnivision charted for purposes of obviousness, each combination involves one reference that is a digital camera system and a second reference that is an analog camera system that uses film (Kawasaki and Lee). There is no motivation to combine an analog camera system using film with a digital camera system to arrive at the patented invention.

Obviousness Combinations Asserted by Omnivision

Kawasaki and Shimada

Kawasaki and Parulski

Hamamura and Kawasaki

Inuiya and Lee

Lee and Parulski

Yokonuma and Kawasaki

INTERROGATORY NO. 10 (ACTUALLY NO. 17): Identify your objective evidence of secondary considerations of non-obviousness for any Asserted Claim and describe in detail all facts and considerations supporting your answer, including but not limited to the identity of all persons with knowledge of those facts or considerations and the documents relevant to those facts or considerations.

RESPONSE:

Plaintiff objects to this interrogatory as prematurely seeking information that is properly the subject of IIS' rebuttal report on validity. IIS will comply with all applicable rules and orders entered by the Court, including any orders regarding the timing of expert reports. Subject to the

foregoing objections, Plaintiff responds as follows:

The apparatus claimed in the '145 Patent has been copied by Defendant which uses the claimed invention in its image sensor products. Omnivision's infringing products have achieved commercial success in the image sensor industry.

INTERROGATORY NO. 11 (ACTUALLY NO. 18): Identify each component or components in the Accused Products that constitute an "indicator set to indicate whether a first flash device or a second flash device is present," a "flash signal," and a "control circuit [that] is configured to generate a flash signal" in sufficient detail to set forth which components constitute each of the above claim limitations individually and to explain why the components that you assert constitute an "indicator set to indicate whether a first flash device or a second flash device is present" are neither a "flash signal" nor a "control circuit [that] is configured to generate a flash signal."

RESPONSE (ORIGINAL):

Plaintiff objects to this Interrogatory as premature given that Omnivision just recently in the past few weeks produced over 100,000 pages of documents, most of which should have been produced as part of its core technical documents much earlier in the case and in no event later than the date for its responses to Plaintiff's First Set of Requests for Production. As such, Plaintiff expressly reserves the right to amend and/or supplement this response. Subject to the foregoing objections, Plaintiff responds as follows:

In its Disclosure of Initial Claim Charts (hereby incorporated by reference), Plaintiff provided a claim chart for each of the Omnivision products presently accused in this case. The claim charts provide a comprehensive and element-by-element analysis of the accused products and demonstrate how each infringes the asserted claim. The claim charts also include excerpts

from the product specifications produced by Omnivision that demonstrate how the accused products meet each claim limitation as well as the bates numbers for the excerpts.

RESPONSE (SUPPLEMENTAL):

Subject to the foregoing objections, Plaintiff responds as follows:

In its Disclosure of Initial Claim Charts (hereby incorporated by reference), Plaintiff provided a claim chart for each of the Omnivision products previously accused in this case. Plaintiff served its Amended Disclosure of Claim Charts (Infringement Contentions) on Omnivision on March 22, 2022 which are hereby incorporated by reference and which includes a list of all Accused Products. The claim charts provide a comprehensive and element-by-element analysis of the accused products and demonstrate how each infringes the asserted claim. The claim charts also include excerpts from the product specifications produced by Omnivision that demonstrate how the accused products meet each claim limitation as well as the bates numbers for the excerpts.

INTERROGATORY NO. 12 (ACTUALLY NO. 19): Describe in detail the measure and proper calculation of any and all damages and harm claimed against Defendant in this litigation, including without limitation the measure and proper calculation, if any, of a reasonable royalty, royalty base, royalty rate, lost profits, and price erosion, or any other remedies sought, including the facts you intend to rely on for those alleged damages.

RESPONSE:

Plaintiff objects to this interrogatory as prematurely seeking expert testimony and information that is properly the subject of IIS' expert report on damages. IIS will comply with all applicable rules and orders entered by the Court, including any orders regarding the timing of expert reports. IIS further objects to this request as premature given that Omnivision has only

recently in the past few weeks provided financial and sales related information. As such, Plaintiff expressly reserves the right to amend and/or supplement this response. Subject to the foregoing objections, Plaintiff responds as follows:

Plaintiff incorporates by reference the portion of its Initial Disclosures which address its potential damages and damages model. Plaintiff reserves the right to supplement this interrogatory as discovery progresses.

INTERROGATORY NO. 13 (ACTUALLY NO. 20): Describe all facts and circumstances relating to any ownership or licensing of the Asserted Patent or offer to sell or license the Asserted Patent, including each person who has ever owned, licensed, or been offered a license to the Asserted Patent, the identification of any license, settlement, or other agreements, including any draft agreements, relating to the ownership or licensing of the Asserted Patent, the dates of any ownership, licensing, or offers, the amounts of any sale of the Asserted Patent, royalties, or other payments exchanged.

RESPONSE:

Plaintiff objects to this interrogatory to the extent that it Subject to the foregoing objections, Plaintiff responds as follows:

Pursuant to Rule 33(d), facts responsive to this Interrogatory can be found in documents already produced by Plaintiff at the following bates range: IDIS-000102 – IDIS-000726. Plaintiff is not aware of any other settlement agreements, licenses, or offers to license the '145 Patent other than that identified in IDIS-000102 - IDIS-000116.

INTERROGATORY NO. 14 (ACTUALLY NO. 21): Identify all individuals with knowledge of your allegations in the Amended Complaint, your responses in your Answer to Defendant's

Counterclaims, your Infringement Contentions, and your responses to each of Omnivision's Interrogatories and Requests for Admissions served in this Action, including their name, position, relationship to IIS, and the allegations and responses of which they have knowledge.

RESPONSE:

Subject to the foregoing objections, Plaintiff responds as follows:

Plaintiff identifies the following individuals with knowledge responsive to this interrogatory: Eric Lucas is former in-house counsel for Acacia Research Group LLC ("ARG") and IIS. Mr. Lucas was also formerly an officer of IIS and has general knowledge of the allegations in the Amended Complaint, the responses in IIS' Answer to Defendant's Counterclaims, and IIS' Infringement Contentions. Charlie Raasch was an employee of ARG with technical knowledge of IIS' Infringement Contentions. Craig Yudell is in-house counsel for ARG and IIS. Mr. Yudell is also an officer of IIS and has general knowledge with respect to the categories of information identified in this Interrogatory. Marc Booth is the President of ARG and has knowledge with respect to the categories of information identified in this Interrogatory.

DATED: April 4, 2022

/s/ Corby R. Vowell

Brian E. Farnan (Bar No. 4089)
Michael J. Farnan (Bar No. 5165)
FARNAN LLP
919 Market Street, 12th Floor
Wilmington, DE 19801
T: 302-777-0300
F: 302-777-0301
bfarnan@farnanlaw.com
mfarnan@farnanlaw.com

Of Counsel:
Jonathan T. Suder (*pro hac vice*)
Corby R. Vowell
Dave R. Gunter (*pro hac vice*)
FRIEDMAN, SUDER & COOKE

Tindall Square Warehouse No. 1
604 East 4th Street, Suite 200
Fort Worth, Texas 76102
Telephone: (817) 334-0400
Facsimile: (817) 334-0401
Email: jts@fsclaw.com
Email: vowell@fsclaw.com
Email: gunter@fsclaw.com

ATTORNEYS FOR PLAINTIFF,
ID IMAGE SENSING LLC

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on April 4, 2022, a true copy of the foregoing was served via electronic mail to the following:

Kelly E. Farnan – farnan@rlf.com

David H. Bluestone – David.bluestone@bfkn.com

Michael D. Educate – michael.educate@bfkn.com

DATED: April 4, 2021

/s/ Corby R. Vowell

ATTORNEYS FOR PLAINTIFF,
ID IMAGE SENSING LLC

CERTIFICATE OF SERVICE

I hereby certify that on April 6, 2022, true and correct copies of the foregoing document were caused to be served on all counsel of record via the Court's CM/ECF system.

/s/ Kelly E. Farnan